



# **OFFICE OF INDEPENDENT REVIEW**

**REPORT FOR THE PERIOD OF  
JANUARY 1, 2019 TO MARCH 31, 2019**

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## **ABOUT THE OFFICE OF INDEPENDENT REVIEW**

The Office of Independent Review (OIR) works to strengthen community trust in the Fresno Police Department (FPD) by providing a neutral, third-party review of police policies, procedures, strategies, and Internal Affairs (IA) investigations. The OIR operates independently of the FPD and will provide City leaders and the public with an objective analysis of policing data, actions, and outcomes. The OIR analyzes complaints filed by citizens and those initiated by the department to ensure they have been investigated fairly and thoroughly. Periodically, the OIR will provide an objective analysis of individual units within the FPD to ensure compliance with policy and procedure, best practices, and the law. This includes recommendations and findings to increase thoroughness, quality, and accuracy of each police unit reviewed.

The work of the OIR is guided by the following principles:

- Independence
- Fairness
- Integrity
- Honesty
- Transparency
- Participation of Stakeholders, both internally and externally
- Acceptance, Cooperation, and Access
- Obedience to Legal Constraints

In addition, a Citizens' Public Safety Advisory Board, hereafter referred to as the Board, works to enhance trust, accountability, transparency, and promote higher standards of services in the FPD. This will increase public confidence in the FPD and work to strengthen and ensure the application of equal protection under the law for everyone in the City of Fresno. The Board also advises the Independent Reviewer (IR) in helping to define, assess, and further develop Community Based Policing citywide.

The Board is comprised of nine individuals appointed by Mayor Lee Brand. The Board members represent the diversity of the community. In addition, there are five non-voting members serving the Board in an advisory capacity. The non-voting members represent the FPD, Fresno Police Officers' Association, City Attorney's Office, Fresno County District Attorney's Office, and Mayor Brand's Office.

## OIR REPORT FORMAT

The OIR adheres to the following guidelines, format, and definitions in all quarterly reports:

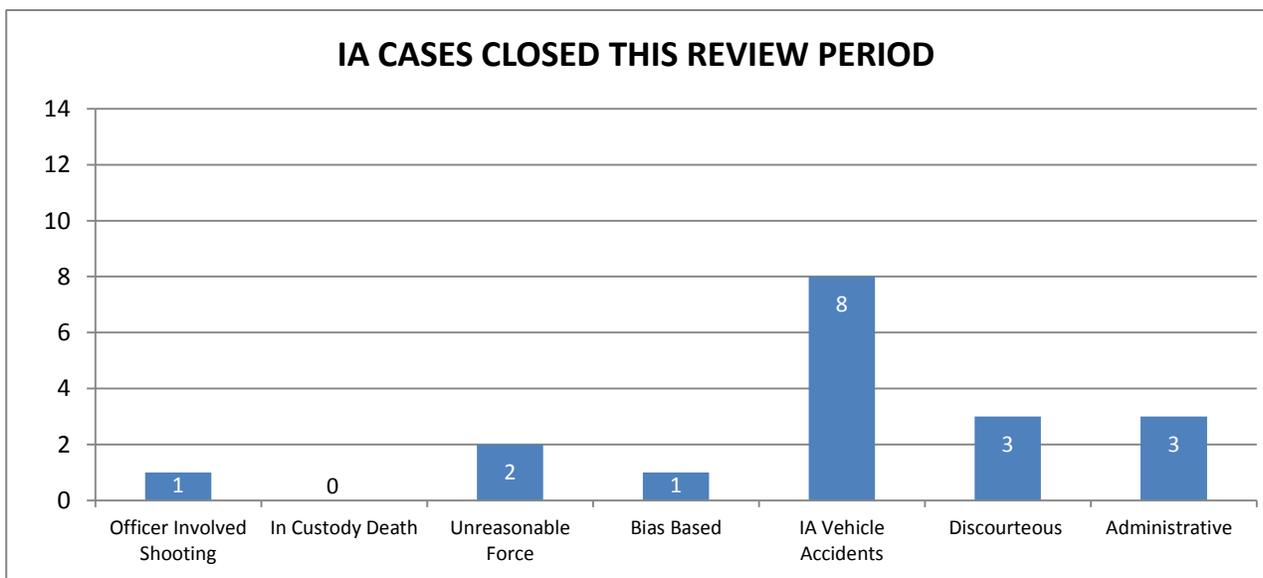
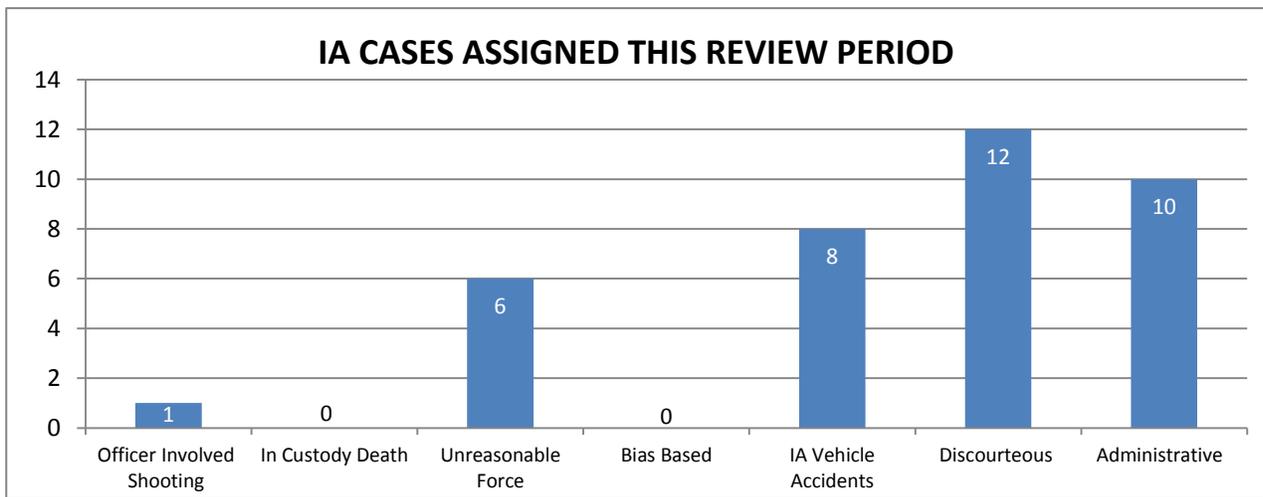
- Definitions for the terms used are consistent with the definition of terms used in California Legislative documents and the FPD.
- Officers are referred to as “O” and where there is more than one officer involved they will be identified as O1, O2, and so on depending on the total number of officers.
- The charts are grouped by incident type and cases appear in order of case number.
- The incident type charts list all cases which were pending, assigned, or closed during the review period, and where applicable a Year to Date (YTD) chart will be listed.
- All cases in which the FPD IA determined the officer(s) was Exonerated, Unfounded, or Not Sustained are reviewed by the OIR. The findings reached by the OIR for these cases will also be listed. If IA and the OIR have not reached the same decision the OIR explanation will appear following the chart. Cases in which IA deemed officer(s) Sustained will not be reviewed by the OIR.
- All closed Informal Complaint cases, which were addressed by supervisors, are also reviewed by the OIR.
- Cases are not reviewed by the OIR until IA has completed their investigation and the case is classified as closed by IA, thus allowing for all information to be reviewed.
- In the event the OIR proposes a recommendation or corrective action, it will appear directly following the chart summarizing the cases within the specific incident type.
- Recommendations or corrective actions which are not directly related to a charted incident type will appear at the end of the report prior to the summary.
- Activities of the Board and Community Coordinator will appear before the summary.
- The report is released to Mayor Lee Brand, City Manager Wilma Quan, Chief Assistant City Attorney Francine M. Kanne, and Chief Jerry Dyer, prior to finalization. This allows the respective parties an opportunity to respond to recommendations and/or findings, and those responses may be included in the final report. However, their reviews and responses will not alter the recommendations or corrective actions made by the OIR. Responses will appear following the summary.
- If the FPD implemented policy or procedure change(s) in response to the OIR's recommendation(s) listed in the previous quarterly report, the change(s) will be addressed in the section titled “Status of OIR Recommendations.”
- Beginning with the 2018 fourth quarter report, cases are now listed as SUSP (Suspended) if the officer or employee who was named in the complaint is no longer employed by FPD. Previously the cases were listed when initially assigned to an investigator. However when the officer or employee’s employment status changed the cases were no longer listed which created doubt on their status. The FPD still reviews the information to improve training and/or policies and procedures when applicable. In view of the fact the officers or employees are no longer with FPD the cases will not be reviewed by the OIR.

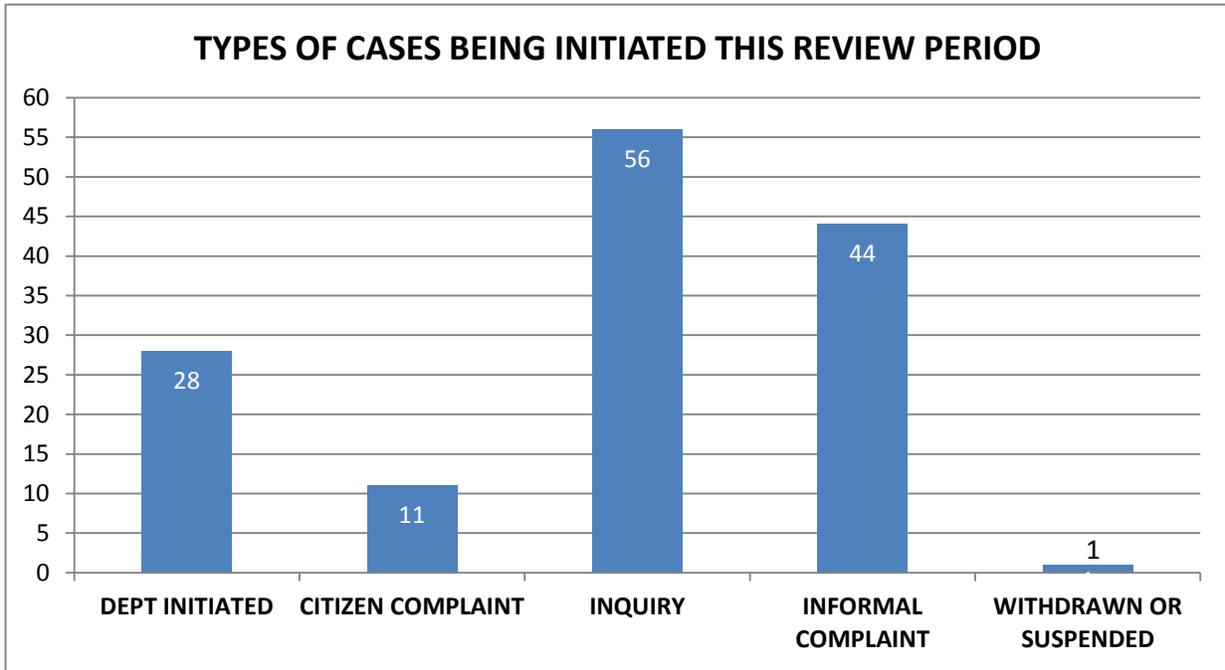
## STATUS OF OIR RECOMMENDATIONS

The FPD responses to the recommendations which were listed in the 2018 fourth quarter report can be found on page 25.

## REVIEW OF INTERNAL AFFAIRS INVESTIGATIONS

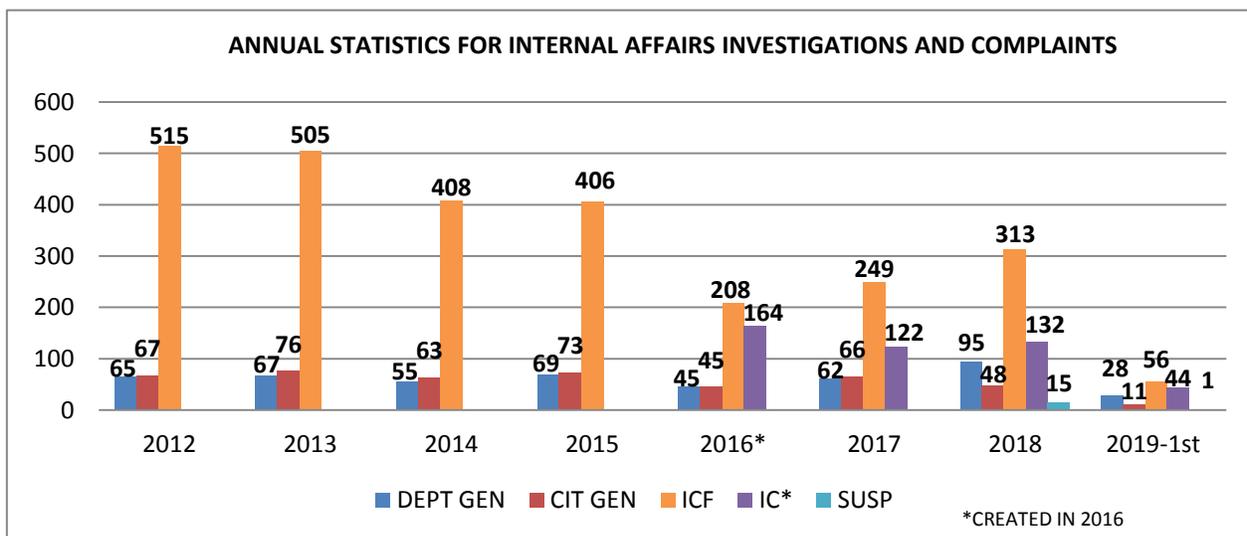
The following charts list the number and types of IA cases assigned and closed during the first quarter of 2019. For classification purposes Discourteous Treatment also includes cases in which the officer was accused of conduct unbecoming of a police officer. The classification of Administrative Matters includes officers accused of violating policies or procedures which do not involve responding to a call for service or interacting with the public.





**Inquiry:** An inquiry involves a question about the policy or procedures of the FPD. Inquiries may be documented via an Inquiry Complaint Form (ICF).

**Informal Complaint:** A matter which can be handled at the supervisor level within a district/division and is not reasonably likely to result in disciplinary measures. Generally, complaints handled via this process include minor allegations or general violations. A finding of Sustained, Not Sustained, Unfounded, or Exonerated is required.



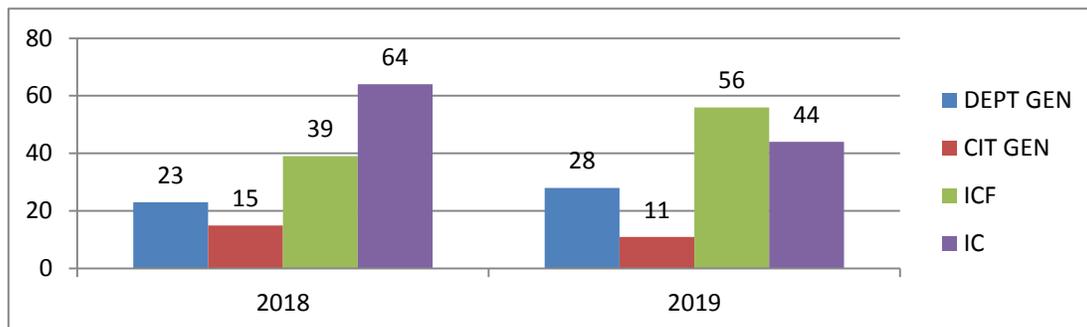
## COMPLAINTS ASSIGNED BY POLICING DISTRICT

The following chart reflects the complaints assigned by policing district for the first quarter of 2019. The first quarter of 2018 was the first time this comparison had been published since the OIR was established in 2009. The purpose of displaying the below is to show the residents of the City of Fresno the level of transparency Mayor Brand and Chief Dyer are working to achieve.

EXPLANATION OF TERMS IN CHART	
NE	NORTHEAST
NW	NORTHWEST
SE	SOUTHEAST
SW	SOUTHWEST
CENT	CENTRAL
NON-DISTRICT	NOT ATTRIBUTED TO A SPECIFIC DISTRICT (OFF-DUTY, ETC)
COMCEN	COMMUNICATION CENTER (DISPATCH)
WITHDRAWN/SUSPENDED	COMPLAINT WAS WITHDRAWN BY CP OR EMPLOYEE IS NO LONGER WITH FPD

COMPLAINTS ASSIGNED BY POLICING DISTRICTS FOR THE FIRST QUARTER OF 2019									
ASSIGNED	NE	NW	SE	SW	CENT	NON DISTRICT	COMCEN	WITHDRAWN/ SUSPENDED	TOTAL
IA CASES	4	8	2	10	5	9	1	1	40
INFORMAL COMPLAINTS	10	7	8	6	4	7	2	0	44
INQUIRIES	11	7	10	13	12	2	1	0	56
1st QTR TOTAL	25	22	20	29	21	18	4	1	140

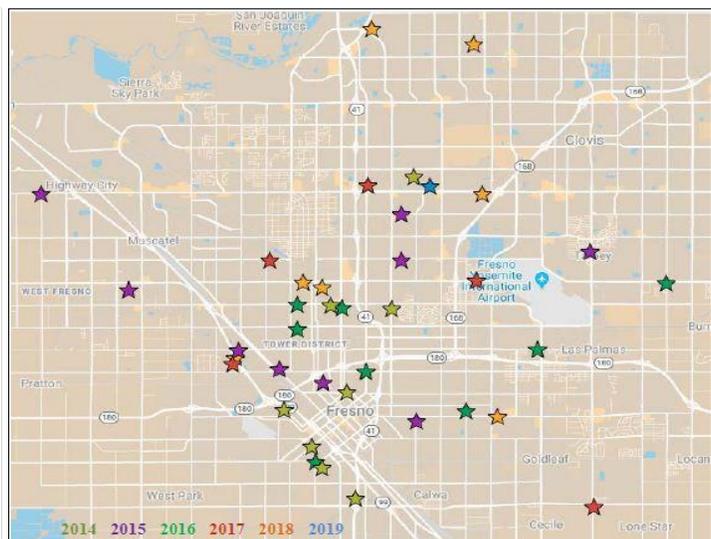
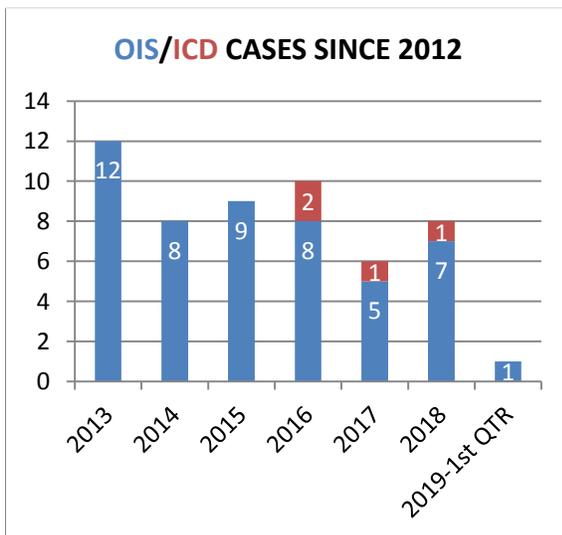
## COMPARISON OF 1<sup>ST</sup> QUARTER COMPLAINTS



EXPLANATION OF TERMS AND ABBREVIATIONS	
UNF	<b>UNFOUNDED:</b> THE INVESTIGATION CLEARLY ESTABLISHED THE ALLEGATION WAS NOT TRUE. COMPLAINTS WHICH ARE DETERMINED TO BE FRIVOLOUS WILL FALL WITHIN THE CLASSIFICATION OF UNFOUNDED [PENAL CODE 832.5(C)]
EX	<b>EXONERATED:</b> THE INVESTIGATION CLEARLY ESTABLISHED THE ACTIONS OF THE PERSONNEL WHICH FORMED THE BASIS OF THE COMPLAINT DID NOT VIOLATE THE LAW OR FPD POLICY
NS	<b>NOT SUSTAINED:</b> THE INVESTIGATION FAILED TO DISCLOSE SUFFICIENT EVIDENCE TO CLEARLY PROVE OR DISPROVE THE ALLEGATION WITHIN THE COMPLAINT
SUS	<b>SUSTAINED:</b> THE INVESTIGATION DISCLOSED SUFFICIENT EVIDENCE TO PROVE THE TRUTH OF THE ALLEGATION IN THE COMPLAINT BY THE PREPONDERANCE OF THE EVIDENCE.
P	<b>PENDING:</b> THE INVESTIGATION HAS NOT BEEN COMPLETED
O	<b>OFFICER:</b> IF FOLLOWED BY A 1, 2, 3, ETC., INDICATES MORE THAN ONE OFFICER WAS BEING INVESTIGATED
RAI	<b>REQUESTED ADDITIONAL INFORMATION</b> WAS MADE BY OIR BEFORE A DECISION COULD BE MADE
NR	<b>NOT REVIEWED:</b> OIR DID NOT REVIEW THE CASE DUE TO FPD FINDING OF SUSTAINED
CP	<b>COMPLAINING PARTY:</b> THE PERSON WHO FILED THE COMPLAINT
SUSP	<b>SUSPENDED:</b> THE OFFICER/EMPLOYEE RESIGNED OR RETIRED PRIOR TO THE CONCLUSION OF THE INVESTIGATION
<b>DATE ASSIGNED IS THE DATE THE CASE WAS ASSIGNED TO AN IA INVESTIGATOR, NOT THE ACTUAL DATE OF OCCURRENCE</b>	

OFFICER INVOLVED SHOOTING (OIS) AND IN CUSTODY DEATHS (ICD)					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
18-0038	3/20/2018	P			DEPT ALLEGED AN IN CUSTODY DEATH
18-0097	7/21/2018	P			SUBJECT FIRED AT RESIDENTS AND OFFICERS- FATAL
18-0108	8/14/2018	2/20/2019	W/IN POL	W/IN POL	O SHOT SUBJ ARMED WITH KNIFE & FIREARM-FATAL
18-0132	10/18/2018	P			O SHOT SUBJ ARMED WITH A HANDGUN
18-0139	11/12/2018	P			O SHOT KNIFE WIELDING SUSPECT WHO CHARGED Os
19-0001	1/5/2019	P			O SHOT SUSPECT THREATENING WITH AX

### LOCATIONS OF OFFICER INVOLVED SHOOTINGS



During the first quarter of 2019 one OIS investigation was completed, closed, and then reviewed by the OIR. During the same period there was one new OIS investigation opened and assigned to an investigator.

As indicated in the chart on page seven, the FPD IA determined the officers were within policy in the completed OIS case. In order to better understand the basis for the findings made by the FPD IA and OIR, the FPD policies along with the applicable United States Supreme Court cases should be reviewed. The respective policies and court cases are summarized below:

#### FPD POLICY 300 USE OF FORCE POLICY 300.1

“It is the policy of the Department that officers shall use only that amount of force that reasonably appears necessary, given the facts and circumstances perceived by the officer at the time of the event, to accomplish a legitimate law enforcement purpose.

#### PURPOSE AND SCOPE

The purpose of this policy is to provide officers of the Department with guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, each officer is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

The "reasonableness" of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that police officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.”

#### POLICY 300.4 OBJECTIVELY REASONABLE FORCE:

“Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect an arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape or to overcome resistance (Penal Code §835a).

“The legal standard recognizes that Peace Officers are often required to make split second judgments and rapidly respond to dynamic situations that are tense, uncertain, rapidly evolving, and potentially dangerous. Members shall evaluate each situation in light of the known circumstances and apply an appropriate use of force calculated to accomplish a legitimate law enforcement mission. In all cases, members shall consider the seriousness of the crime, the level of resistance, and the apparent threat to the safety of the community, the arresting officer, and the person or persons to be detained. The degree of force used will be that which is objectively reasonable to bring individual situations under control. The degree of force and the manner of its

application shall be consistent with the training the member has received relative to its use and application.”

#### POLICY 300.4.1 CONSTITUTIONAL GUIDELINES FOR REASONABLE FORCE

“Both Federal and State law authorize Peace Officers to use objectively reasonable force to accomplish a legitimate law enforcement mission. There are five recognized objectives that serve as the basis for the reasonableness of any police use of force. The five lawfully recognized objectives are:

- (a) Self-defense;
- (b) Defense of others;
- (c) Effect an arrest or detention;
- (d) Prevent an escape; or
- (e) Overcome resistance.

Due to the immediacy with which a member must apply force, together with the absence of time and/or physical ability of the member to select alternative methods, it may be objectively reasonable for the member to apply that method of force most readily available that will affect the desired results.”

#### POLICY 300.4.2 JUSTIFICATION - KNOWN FACTS

The decision to use force, including deadly force, must be made based solely on the facts known to the member at the time force is used. Justification for the use of force shall be based on the situation as it reasonably appeared to the member(s) directly involved in its application. Facts unknown to the member at the time, no matter how compelling, cannot be considered later in determining the reasonableness of the member’s decision to use force.

#### POLICY 300.6 DEADLY FORCE APPLICATIONS

“As used in all Department documents, the terms "deadly force" and "lethal force" are used interchangeably and have the same meaning.

The intentional discharge of a firearm at an individual, with the exception of those firearms dedicated to less lethal munitions, constitutes deadly force. Deadly force is force that creates a substantial risk of causing death or serious bodily injury. While the discharge of a firearm is expressly considered deadly force, other force might also be considered deadly force if the officer reasonably anticipates and intends that the force applied will create a substantial likelihood of causing death or serious bodily injury.”

#### POLICY 300.6.1 GUIDELINES

“An officer may use deadly force:

- (a) To protect himself/herself or others from what he/she reasonably believes would be an immediate threat of death or serious bodily injury.

(b) To effect the arrest or prevent the escape of a suspected felon in the following circumstances:

1. Where the officer has probable cause to believe the suspect has committed a felony involving the infliction or threatened infliction of serious bodily injury or death; and
2. The officer reasonably believes there is a substantial risk of serious bodily injury or death to others if the suspect is not immediately apprehended; and

(c) To stop a dangerous animal.

1. Exception: An officer may shoot an animal that appears so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical.

Officers shall, when practical, identify themselves and state their intention to shoot before using a firearm.”

The following United States Supreme court decisions were also considered to determine if the force used was within policy:

**Graham vs. Connor**, 490 U.S. 396 (1989), which held that courts must look at whether the officer's actions were reasonable based on the information and circumstances confronting that officer at the time. The court stated that the 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation. Not the best decision, only a reasonable decision.

**Tennessee vs. Garner**, 471 U.S. 1 (1985), is a civil case in which the Supreme Court of the United States held that, under the Fourth Amendment, when a law enforcement officer is pursuing a fleeing suspect, the officer may not use deadly force to prevent escape unless "the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others." It was found that use of deadly force to prevent escape is an unreasonable seizure under the Fourth Amendment, in the absence of probable cause that the fleeing suspect posed a physical danger.

The following are the OIR reviews of the cases in which the FPD IA investigations were completed during the first quarter of 2019. In order to maintain the confidentiality afforded to the FPD officers under the California Peace Officer's Bill of Rights, and to preserve certain tactical actions used for officer safety, the below is a redacted review of the hundreds of pages of reports and documents in the IA investigative files. In addition to the written reports, the review of the IA files included, but was not limited to, numerous hours of video and audio recordings of interviews of officers, witnesses, and body worn cameras (BWC).

**IA2018-0108:** On August 14, 2018, at 11:34 AM, the FPD received a telephone call regarding a male acting suspicious near the Mario G. Elementary School. The first officer, O1, arrived on scene at 11:40 AM, and was immediately flagged down by school staff. The staff pointed out two individuals arguing in a field across the street and in close proximity to the school. O1 turned his attention to the individuals in the field and began moving in their direction. One of the two individuals then ran northbound and climbed over a nearby fence and departed the area. The remaining male was then observed by O1 throwing what appeared to be a rock in the direction of the departing unidentified male.

At this time O1 activated his body worn camera (BWC) and called out to the remaining male. The male picked up a large stick and looked towards the officer and said something in his direction. O1 determined the male was speaking Spanish so he began addressing the male in Spanish and instructed him to drop the stick, to which he complied. Within the first two minutes of conversing with the male O1 recognized the male was displaying mental health issues which he then advised FPD dispatch. O1 then requested assistance from a Crisis Intervention Team (CIT) trained officer and a CIT officer was subsequently dispatched to assist. Up to this point the male was not acting in an aggressive manner but he was also not responding to any of the questions being asked of him by O1. The male repeatedly talked over O1 and jumped from one topic to another to include, religion, hospitals, military, and foreign countries.

A CIT officer, O2, arrived on scene six minutes and eight seconds after being dispatched. O2 recognized the male spoke only Spanish and deferred the ongoing attempt to communicate with the male to O1. Another officer, O3, arrived on scene two minutes after the arrival of O2. As the male turned his body O2 observed a large knife protruding from the backpack the male was carrying. The announcement of the knife in the backpack by O2 could be heard on the BWC recording. Although the male appeared agitated from the initial contact, at this point he began to raise his voice to the point of yelling at the officers.

The sight of a knife was relayed to dispatch and a request for less lethal equipment was made by O1. Two additional officers arrived, O4 and O5, with O4 carrying a less lethal shotgun. O1 asked the male to drop the back pack which contained the knife after 19 minutes and 45 seconds of his initial contact with him. A minute later the male dropped the backpack but continued to yell at the officers. O1 then asked the male to sit down seven times. However, approximately ten seconds after the male dropped the backpack he began moving towards it. O1 told the male "NO" 12 times but the male continued moving towards the backpack and removed the knife. O1 repeated "NO" numerous times but the male ignored the commands. At this point O2 (CIT) advised all the officers to back up and give the male distance. O1 continued to ask the male to sit down but again he ignored O1's requests.

O1's attempts to get the male to sit down continued for another three minutes without success. The male then reached for the backpack again and removed a dark colored handgun. As the male began to raise the weapon the officers fearing for their lives fired their weapons a total of five times. O1 immediately ran to his patrol car to retrieve the medical aid kit which was used by the officers on scene. Emergency medical personnel arrived a short time later and the male was transported to the hospital where he was declared deceased. It was later learned the weapon the male removed from his backpack was a replica weapon. It should be noted, the officers

attempted to de-escalate the situation for a total of 23 minutes and 40 seconds before they fired their weapons in response to the male producing a handgun from his backpack. In view of the actions of the male, the officers on scene had no other option but to utilize deadly force as the male had armed himself with a handgun. The display of the handgun clearly put the lives of the officers, and occupants of the nearby elementary school, at risk. The fact the weapon the male produced was a replica was not determined until after it was secured and closely examined.

In addition to reviewing the evidence contained in the IA file, the OIR was notified and responded to the scene immediately following the incident. Once at the scene a summary was given and the OIR was able to view the scene along with Chief Dyer and his staff.

Therefore, the use of deadly force in this matter was determined to be **Within Policy**.

UNREASONABLE FORCE					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
18-0106	8/2/2018	P			DEPT ALLEGED O USED UNREASONABLE FORCE
18-0119	9/19/2018	2/11/2019	UNF	UNF	CP ALLEGED O USED UNREASONABLE FORCE
18-0135	10/22/2018	P			CP ALLEGED HANDCUFFS WERE TOO TIGHT
18-0143	11/19/2018	1/29/2019	EX	EX	CP ALLEGED OFF-DUTY O USED UNREASONABLE FORCE
18-0146	12/6/2018	P			CP ALLEGED UNK Os USED UNREASONABLE FORCE AT FAIR
18-0151	12/7/2018	P			CP ALLEGED O USED UNREASONABLE FORCE
18-0152	12/7/2018	P			CP ALLEGED O USED UNREASONABLE FORCE AND ILLEGAL ENTRY
19-0005	1/8/2019	P			CP ALLEGED Os USED UNREASONABLE FORCE
19-0008	1/9/2019	P			CP ALLEGED O USED UNREASONABLE FORCE
19-0024	2/12/2019	P			DEPT ALLEGED O DEPLOYED UNAUTHORIZED FORCE OPTION
19-0025	2/12/2019	P			CP ALLEGED O USED UNREASONABLE FORCE
19-0030	3/12/2019	P			CP ALLEGED O USED UNREASONABLE FORCE
19-0038	3/29/2019	P			CP ALLEGED O USED UNREASONABLE FORCE

A thorough review of the completed Unreasonable Force investigations was conducted by the OIR. In each of the two completed investigations the OIR determined the IA findings were appropriate.

BIAS BASED					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
18-0116	9/11/2018	2/20/2019	UNF x 3	UNF x 3	CP ALLEGED O WAS BIASED AND ABUSED AUTHORITY

**IA2018-0116:** Due to the fact this matter generated significant public and media attention it was determined the publishing of the case summary was necessary to maintain the commitment of full and complete transparency to the residents of the City of Fresno.

In June 2018, the FPD was dispatched to the robbery of a food truck vendor located in a parking lot of a convenience store. During the course of the investigation it was determined the vendor did not possess the required food preparation permits and the trailer which housed the food service had not been registered since 2014. Because the officer had experience working enforcement operations with the Fresno County Health Department he was familiar with permit requirements. The officer elected not to cite the vendor for the permit or registration violations but instead provided guidance on what was needed to be in compliance in order to avoid a permit citation or vehicle code violation ticket.

Over the next several months the officer came in contact with the vendor at least six times. Each time the officer noted the vendor had not obtained the necessary permits or renewed the registration for his trailer. Each time the officer repeated the violations the vendor became argumentative. The officer informed the vendor if he did not obtain the proper permits and vehicle registration he would be cited and ticketed.

The officer also advised code enforcement of the vendor continuing to operate without the proper permits. Code enforcement advised due to resource limitations and the fact the vendor was operating after normal business hours they would not be able to address the problem. The officer then exercised due diligence by informing his supervisor and providing the Fresno City Attorney's Office with the specific code violations he believed were being violated. It was confirmed the code violations were being violated and charges would be filed if the vendor did not comply.

On August 4, 2018, the officer contacted the vendor while recording the interaction with his body worn camera (BWC). During the 28:55 minute contact the officer can be heard asking the vendor if he had obtained the permits or renewed the registration for his trailer. The officer then explained he was extending a courtesy to the vendor by not citing him or towing the trailer. However, he would not have a choice if the vendor continued to operate in violation of the law. Both the vendor and a female employee refused to provide identification or their names. The employee did thank the officer for not towing the trailer but the vendor refused to acknowledge the courtesy extended to him. The vendor loaded his trailer with chairs and tables which he had set up and then walked away from the officer. During the entire encounter the officer was stern, but professional. After the vendor walked away from the officer the officer left the area.

The following night, August 5, 2018, the officer returned and noted the vendor was operating his food business again. Once again the contact was recorded using a BWC. When it was

determined the permits were not obtained, and the registration was not renewed, the officer requested identification from the vendor. The vendor refused to provide identification or give his name. The officer explained several times the information was needed for a citation and the vendor would be free to leave. However, if the vendor refused to provide the information the officer would be forced to arrest him. When it was apparent the vendor was not going to cooperate the officer attempted to place handcuffs on the vendor. Although the vendor did not strike or attempt to strike the officer, the vendor did tense up his upper body in an effort to avoid being handcuffed and was essentially resisting arrest. It was at this point a bystander began recording the incident with a cell phone. The cell phone video was then posted on Facebook and carried by several local media outlets. The cell phone video failed to capture the repeated attempts by the officer to solely obtain the vendor's identification or the vendor would be arrested. The bystander could be heard making various allegations on why he felt the officer was arresting the vendor although he had only witnessed the application of the handcuffs.

A thorough review of the BWC recordings for August 4, and August 5, and the recorded interview of the bystander, determined the officer did not display signs of bias based policing, unreasonable force, or abuse of authority.

Therefore, the results were findings of **Unfounded** for each of the three allegations.

DISCOURTEOUS TREATMENT OR CONDUCT UNBECOMING OF A POLICE OFFICER					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
17-0127	12/19/2017	P			CP ALLEGED CALL TAKER WAS RUDE & CONDESCENDING
18-0067	6/7/2018	P			DEPT ALLEGED O1 & O2 VIOLATED PURSUIT POLICY
18-0079	6/20/2018	P			CP ALLEGED O IMPROPERLY TARGETED GANG MEMBERS
18-0082	7/9/2018	P			DEPT ALLEGED OFF-DUTY O WAS INVOLVED IN DV
18-0094	7/17/2018	1/31/2019	SUSP	NR	DEPT ALLEGED O WAS INVOLVED IN DV MATTER
18-0099	7/23/2018	P			DEPT ALLEGED OFF-DUTY O WAS INVOLVED IN DV
18-0117	9/11/2018	P			CP ALLEGED OFF DUTY O OF DOM VIOLENCE
18-0125	10/3/2018	P			DEPT ALLEGED OFF-DUTY O WAS ARRESTED
18-0137	10/22/2018	1/15/2019	UNF	UNF	CP ALLEGED O1 & O2 WERE DISRESPECTFUL
18-0141	11/19/2018	P			DEPT ALLEGED O PROVIDED MISLEADING STATEMENTS AND WAS NOT TRAINED IN PIT MANEUVER
18-0147	12/6/2018	P			CP ALLEGED IMPROPER SEARCH & SEIZURE
18-0148	12/7/2018	P			O ALLEGED SGT MADE INAPPROPRIATE COMMENT

DISCOURTEOUS TREATMENT OR CONDUCT UNBECOMING OF A POLICE OFFICER					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
18-0149	12/7/2018	P			DEPT ALLEGED O AND SGT DID NOT PERFORM DUTIES
18-0154	12/7/2018	3/11/2019	NS	NS	CP ALLEGED SGT MADE INAPPROPRIATE COMMENT
19-0003	1/7/2019	P			CP ALLEGED O WAS CONSPIRING AGAINST HIM
19-0006	1/8/2019	P			DEPT ALLEGED EMP WAS INVOLVED IN DV INCIDENT
19-0009	1/9/2019	P			DEPT ALLEGED O WAS ARRESTED FOR DUI
19-0010	1/9/2019	P			CP ALLEGED O WAS DRIVING AT EXCESSIVE SPEED
19-0015	9/27/2018	P			CP ALLEGED O KEPT HER IN PATROL CAR FOR EXT PERIOD
19-0020	2/8/2019	P			CP ALLEGED O WAS UNPROFESSIONAL AND AGGRESSIVE
19-0021	2/8/2019	P			DEPT ALLEGED OFF-DUTY O MADE THREATENING STATEMENTS RAISING CONCERN FOR SAFETY
19-0023	2/12/2019	P			DEPT ALLEGED CST MADE INAPPROPRIATE COMMENTS
19-0026	2/12/2019	P			CP ALLEGED O WAS DISCOURTEOUS TO DV VICTIM
19-0027	2/22/2019	P			DEPT ALLEGED CONDUCT UNBECOMING, CRIM ACTIONS
19-0029	3/11/2019	P			DEPT ALLEGED O LACKED DISCRETION/ACTIVATE BWC
19-0031	3/12/2019	P			CP ALLEGED O CONDUCTED AN IMPROPER BODY SEARCH
19-0033	3/22/2019	P			CP ALLEGED Os DID NOT ADVISE OF CHARGES, SECURE CP IN VEHICLE BEFORE TRANSPORT & PERMIT HIM TO SEE CHILDREN PRIOR TO TRANSPORT AFTER BEING ARRESTED

Each of the Discourteous Treatment or Conduct Unbecoming of a Police Officer cases where IA determined the findings were Not Sustained, Exonerated, or Unfounded were reviewed. Following a thorough review the IA findings were found to be appropriate.

ADMINISTRATIVE OR PERFORMANCE MATTERS					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
18-0016	2/2/2018	P			DEPT ALLEGED IMPROPER USE OF FIREARM
18-0083	7/9/2018	3/8/2019	SUS	NR	CP ALLEGED O LOST/MISPLACED PROPERTY

ADMINISTRATIVE OR PERFORMANCE MATTERS					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
18-0091	7/17/2018	3/18/2019	SUS	NR	DEPT ALLEGED O's UNATTENDED VEHICLE STOLEN
18-0120	9/19/2018	P			DEPT ALLEGED O DID NOT SECURE FPD PROPERTY
18-0123	9/28/2018	P			DEPT ALLEGED O FAILED TO LABEL BODY CAM VIDEO
18-0124	9/28/2018	2/26/2019	SUS	NR	DEPT ALLEGED O FAILED TO LABEL BODY CAM VIDEO
18-0133	10/22/2018	P			DEPT ALLEGED O1 & O2 DID NOT LOCATE WEAPON ON PRISONER
18-0138	11/1/2018	1/29/2019	SUS	NR	DEPT ALLEGED O LEFT FPD PROP UNATTENDED
18-0141	11/16/2018	P			CP ALLEGED O LOST/MISPLACED PROPERTY
18-0150	12/7/2018	P			DEPT ALLEGED O HAD A NEGLIGENT DISCHARGE
18-0153	12/7/2018	P			DEPT ALLEGED O MISPLACED FPD PROPERTY
18-0155	12/7/2018	1/16/2019	NOT AN IA CLOSED	NR	DEPT ALLEGED O ENGAGED IN ACTIVITIES WHILE OUT ON WORK INJURY
18-0156	12/7/2018	P			DEPT ALLEGED O DISREGARDED DEPT MEMO
19-0004	1/4/2019	P			DEPT ALLEGED O HAD AN ACC DISCHARGE OF LESS LETHAL WEAPON
19-0014	1/28/2019	2/28/2019	SUS	NR	DEPT ALLEGED O DID NOT DOCUMENT VEH ACC
19-0018	2/8/2019	P			DEPT ALLEGED O DID NOT CORRECT EVIDENCE ERROR
19-0022	2/12/2018	P			DEPT ALLEGED ESD DID NOT WORK REQUIRED SHIFT CAUSING SHORTAGE AT COMCEN
19-0028	3/11/2019	P			DEPT ALLEGED O VIOLATED PURSUIT POLICY
19-0032	3/22/2019	P			DEPT ALLEGED O DID NOT SECURE FPD PROPERTY, WHICH WAS THEN STOLEN
19-0035	3/28/2019	P			DEPT ALLEGED EMP WAS INSUBORDINATE
19-0036	3/28/2019	P			DEPT ALLEGED EMP DID NOT NOTIFY WHEN SICK
19-0039	3/29/2019	P			DEPT ALLEGED SGT DID NOT COMPLETE REPORT
19-0040	3/29/2019	P			DEPT ALLEGED O DID NOT PROPERLY SECURE RIFLE

Each of the completed Administrative or Performance Matter IA investigations were reviewed by the OIR. In view each completed investigation which resulted in a finding of sustained, the cases were not reviewed by the OIR.

IA VEHICLE ACCIDENTS					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
18-0063	5/21/2018	3/18/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
18-0113	9/10/2018	3/27/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
18-0122	9/27/2018	2/20/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
18-0126	10/3/2018	1/29/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
18-0127	10/4/2018	1/12/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
18-0128	10/5/2018	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
18-0144	11/28/2018	1/17/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
18-0145	11/28/2018	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
18-0157	12/15/2018	2/20/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
18-0158	12/20/2018	3/27/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0007	1/8/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0011	1/14/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0012	1/15/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0013	1/17/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0016	1/31/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0017	1/31/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0019	2/8/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0034	3/28/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT

Each of the completed IA Vehicle Accident investigations resulted in a finding of sustained. Therefore, the cases did not require a review by the OIR.

INFORMAL COMPLAINTS					
IC CASE NUMBER	DATE RECEIVED	DATE COMPLETED	ALLEGATION-FPD FINDING(S)	OIR FINDING(S)	DISTRICT
IC19-0001	9/23/2018	1/12/2019	DISCOURTEOUS - NOT SUSTAINED	NOT SUSTAINED	SW
IC19-0002	10/11/2018	1/12/2019	PROPERTY- NOT DEPT OWNED - LOST/DAMAGED - SUSTAINED PROPERTY- NOT DEPT OWNED - LOST/DAMAGED - SUSTAINED	SUSTAINED SUSTAINED	SW
IC19-0003	11/18/2018	1/12/2019	DISCOURTEOUS - UNFOUNDED	UNFOUNDED	NE
IC19-0004	12/3/2018	1/12/2019	CONDUCT UNBECOMING ON/OFF DUTY - NOT SUSTAINED	NOT SUSTAINED	NON-DISTRICT
IC19-0005	12/7/2018	1/12/2019	SICK LEAVE ISSUES - UNFOUNDED	UNFOUNDED	NE
IC19-0006	12/10/2018	1/12/2019	COURT APPEARANCE - CRIMINAL ACTS/FAILURE TO OBEY ALL LAWS - SUSTAINED	SUSTAINED	SW
IC19-0007	8/23/2018	1/28/2019	DISCOURTEOUS - SUSTAINED	SUSTAINED	COMCEN
IC19-0008	10/2/2018	1/28/2019	GENERAL CALL HANDLING - UNFOUNDED GENERAL CALL HANDLING - UNFOUNDED	UNFOUNDED UNFOUNDED	NE
IC19-0009	12/27/2018	1/28/2019	GENERAL RESPONSIBILITIES - NOT SUSTAINED GENERAL RESPONSIBILITIES - NOT SUSTAINED	NOT SUSTAINED NOT SUSTAINED	SE
IC19-0010	12/31/2018	1/28/2019	GENERAL RESPONSIBILITIES - UNFOUNDED GENERAL RESPONSIBILITIES - UNFOUNDED	UNFOUNDED UNFOUNDED	NE
IC19-0011	1/3/2019	1/28/2019	INVESTIGATION HANDLING - EXONERATED DISCOURTEOUS - EXONERATED INVESTIGATION HANDLING - EXONERATED INVESTIGATION HANDLING - EXONERATED	EXONERATED EXONERATED EXONERATED EXONERATED	SW
IC19-0012	1/11/2019	1/28/2019	ARREST AUTHORITY/PROCEDURES - UNFOUNDED TOW/IMPOUND ISSUES - UNFOUNDED FAILURE TO PROVIDE BADGE # OR INFO - UNFOUNDED MEDICAL ATTENTION -FAILURE TO PROVIDE - UNFOUNDED	UNFOUNDED UNFOUNDED UNFOUNDED UNFOUNDED	SE
IC19-0013	10/9/2018	2/13/2019	GENERAL RESPONSIBILITIES - UNFOUNDED	UNFOUNDED	NON-DISTRICT
IC19-0014	11/23/2018	2/13/2019	GENERAL RESPONSIBILITIES - NOT SUSTAINED	NOT SUSTAINED	NW
IC19-0015	11/26/2018	2/13/2019	DISCOURTEOUS - EXONERATED INVESTIGATION HANDLING - EXONERATED	EXONERATED EXONERATED	NON-DISTRICT
IC19-0016	12/5/2018	2/13/2019	ARREST AUTHORITY/PROCEDURES - UNFOUNDED SEARCH/SEIZURE ISSUES - UNFOUNDED UNREASONABLE FORCE - UNFOUNDED	UNFOUNDED UNFOUNDED UNFOUNDED	NW
IC19-0017	12/16/2018	2/13/2019	PERFORMANCE - UNFOUNDED PERFORMANCE - UNFOUNDED	UNFOUNDED UNFOUNDED	SW
IC19-0018	12/19/2018	2/13/2019	DISCOURTEOUS - SUSTAINED DISCOURTEOUS - SUSTAINED DISCOURTEOUS - SUSTAINED	SUSTAINED SUSTAINED SUSTAINED	NW
IC19-0019	12/20/2018	2/13/2019	DISCOURTEOUS - UNFOUNDED INVESTIGATION HANDLING - UNFOUNDED UNREASONABLE FORCE - UNFOUNDED DISCOURTEOUS - UNFOUNDED INVESTIGATION HANDLING - UNFOUNDED UNREASONABLE FORCE - UNFOUNDED DISCOURTEOUS - UNFOUNDED INVESTIGATION HANDLING - UNFOUNDED UNREASONABLE FORCE - UNFOUNDED	UNFOUNDED UNFOUNDED UNFOUNDED UNFOUNDED UNFOUNDED UNFOUNDED UNFOUNDED UNFOUNDED UNFOUNDED	CENT
IC19-0020	12/20/2018	2/13/2019	PERFORMANCE - SUSTAINED PROPERTY/EVIDENCE HANDLING - SUSTAINED	SUSTAINED SUSTAINED	NON-DISTRICT
IC19-0021	12/29/2018	2/13/2019	GENERAL RESPONSIBILITIES - UNFOUNDED	UNFOUNDED	NW
IC19-0022	1/4/2019	2/13/2019	PRISONER'S PROPERTY - LOST/DAMAGED/RETURN OF - UNFOUNDED PRISONER'S PROPERTY - LOST/DAMAGED/RETURN OF - UNFOUNDED	UNFOUNDED UNFOUNDED	NE

INFORMAL COMPLAINTS					
IC CASE NUMBER	DATE RECEIVED	DATE COMPLETED	ALLEGATION-FPD FINDING(S)	OIR FINDING(S)	DISTRICT
IC19-0023	1/10/2019	2/13/2019	INVESTIGATION HANDLING - UNFOUNDED	UNFOUNDED	NE
IC19-0024	1/19/2019	2/13/2019	GENERAL CALL HANDLING - UNFOUNDED	UNFOUNDED	NW
IC19-0025	1/21/2019	2/13/2019	GENERAL CALL HANDLING - UNFOUNDED GENERAL CALL HANDLING - UNFOUNDED GENERAL CALL HANDLING - UNFOUNDED	UNFOUNDED UNFOUNDED UNFOUNDED	NE
IC19-0026	1/22/2019	2/13/2019	GENERAL RESPONSIBILITIES - NOT SUSTAINED	NOT SUSTAINED	SE
IC19-0027	1/22/2019	2/13/2019	DISCOURTEOUS - UNFOUNDED	UNFOUNDED	NON-DISTRICT
IC19-0028	2/12/2019	2/13/2019	UNREASONABLE FORCE - UNFOUNDED	UNFOUNDED	NE
IC19-0029	12/2/2018	3/12/2019	SEARCH/SEIZURE ISSUES - SUSTAINED	SUSTAINED	SW
IC19-0030	12/26/2018	3/12/2019	DISCOURTEOUS - UNFOUNDED DISCOURTEOUS - UNFOUNDED	UNFOUNDED UNFOUNDED	CENT
IC19-0031	1/8/2019	3/12/2019	VEHICLE OPERATIONS - UNFOUNDED	UNFOUNDED	SW
IC19-0032	1/14/2019	3/12/2019	REPORT PREPARATION - FALSE/MISLEADING - UNFOUNDED GENERAL RESPONSIBILITIES - UNFOUNDED	UNFOUNDED UNFOUNDED	NE
IC19-0033	1/15/2019	3/12/2019	REPORT PREPARATION - UNFOUNDED	UNFOUNDED	NW
IC19-0034	1/22/2019	3/12/2019	FAILURE TO PROVIDE BADGE # OR INFO - UNFOUNDED	UNFOUNDED	SE
IC19-0035	1/29/2019	3/12/2019	INVESTIGATION HANDLING - EXONERATED	EXONERATED	NW
IC19-0036	1/30/2019	3/12/2019	REPORT PREPARATION - UNFOUNDED	UNFOUNDED	NE
IC19-0037	1/30/2019	3/12/2019	PERFORMANCE - SUSTAINED	SUSTAINED	NON-DISTRICT
IC19-0038	2/2/2019	3/12/2019	DISCOURTEOUS - UNFOUNDED	UNFOUNDED	SE
IC19-0039	2/3/2019	3/12/2019	GENERAL CALL HANDLING - SUSTAINED	SUSTAINED	COMCEN
IC19-0040	2/7/2019	3/12/2019	PERFORMANCE - UNFOUNDED PERFORMANCE - UNFOUNDED PERFORMANCE - UNFOUNDED	UNFOUNDED UNFOUNDED UNFOUNDED	CENT
IC19-0041	2/10/2019	3/12/2019	ARREST AUTHORITY/PROCEDURES - UNFOUNDED RACIAL/BIAS BASED PROFILING - UNFOUNDED ARREST AUTHORITY/PROCEDURES - UNFOUNDED RACIAL/BIAS BASED PROFILING - UNFOUNDED ARREST AUTHORITY/PROCEDURES - UNFOUNDED RACIAL/BIAS BASED PROFILING - UNFOUNDED ARREST AUTHORITY/PROCEDURES - UNFOUNDED RACIAL/BIAS BASED PROFILING - UNFOUNDED	UNFOUNDED UNFOUNDED UNFOUNDED UNFOUNDED UNFOUNDED UNFOUNDED UNFOUNDED UNFOUNDED	CENT
IC19-0042	2/12/2019	3/12/2019	GENERAL CALL HANDLING - UNFOUNDED GENERAL CALL HANDLING - UNFOUNDED GENERAL CALL HANDLING - UNFOUNDED	UNFOUNDED UNFOUNDED UNFOUNDED	SE
IC19-0043	2/14/2019	3/12/2019	DEPT PROPERTY - LOST - SUSTAINED	SUSTAINED	NON-DISTRICT
IC19-0044	2/20/2019	3/12/2019	ARREST AUTHORITY/PROCEDURES - UNFOUNDED	UNFOUNDED	SE

All 44 Informal Complaint cases were reviewed to determine if they were properly classified and if the findings were appropriate. After a thorough review all the cases were determined to be classified appropriately and the correct findings were reached.

## RECOMMENDATION BASED ON COMMUNITY COMMENTS

In the second quarterly OIR report of 2018 several of the common concerns expressed to this office when we spoke to groups and organizations were referenced. Overall the compliments regarding the FPD outweighed the concerns; however two concerns were expressed more than any others we have heard. One concern was regarding the hold times when calling 9-1-1. Shortly after the second quarterly report was released the FPD held two informational public meetings for individuals interested in becoming an Emergency Services Dispatcher (ESD). This action resulted in 184 individuals attending the two meetings. In November the Administration and the City Council also recognized the need for additional ESDs by approving the hiring of eight additional ESDs. Finally, a new service, 3-1-1, was launched in March 2019 with several purposes in mind. One of the purposes is to minimize the burden of non-emergency calls taken by the ESDs.

The other consistently expressed concern dealt with officer response times. There are several factors which could explain the reason for this concern. One possible contributing factor would be the number of personnel reductions in the last ten years. In 2009, before the recession and cutbacks, there were 849 sworn personnel (officers) and 471 non-sworn (civilian employees). Since the cutbacks the FPD attempted to increase the number of personnel but due to budget limitations the increase in personnel has not kept up with increase in population or other demands placed on the FPD. In 2009 the population was approximately 481,000; in 2018 the population rose to approximately 530,000. Although the population increased by almost 50,000 residents, the number of officers decreased from 849 in 2009 to 831 as of this writing. The number of non-sworn personnel decreased from 471 to 279, which is a 40% reduction in the last ten years.

The most recognizable display of the FPD personnel are sworn officers in patrol cars answering calls for service (CFS). However, due to the reduction in non-sworn personnel what is rarely seen, and yet also contributes to answering CFS, are Community Services Officers, often referred to as a CSO. The following is a list of CFS a CSO could be dispatched to handle:

- Prior burglary with suspect not present;
- Prior vehicle burglary with suspect not present;
- Follow-up with suspects not present;
- Non-injury and minor-injury vehicle accidents;
- Vehicle blocking a driveway;
- Abandoned vehicle;
- Illegal parker;
- Other traffic problem;
- Barking Dog;
- Prior threatening phone call;
- Missing person other than foul play;
- Suspicious person, information only;
- Prior prowler report;
- Public assist;
- Prior stolen vehicle report;

- Recovered or unfounded stolen vehicles;
- Prior bike theft;
- Prior theft from vehicle;
- Prior theft of vehicle accessories;
- Prior grand theft;
- Prior petty theft;
- Lost property report;
- Found property report;
- Prior vandalism;
- Noise or other disturbances that involve no contact with the offender; and
- Other calls approved by a supervisor or the Department.

Dispatched CFS are assigned a priority number based on the urgency of the need for an officer to respond. The level of priorities range from 0 to T, with 0 being the most urgent. Due to the number of 9-1-1 calls, and other calls received by the FPD, a majority of the calls the officers are dispatched to are 0s, 1s, and 2s. The following summarizes the priority levels of the CFS:

- Priority 0 - Designates an emergency CFS for a presumed life threatening situation.
- Priority 1 - Designates an urgent CFS for non-life threatening situations and property crimes in progress.
- Priority 2 - Designates a routine CFS that requires a field response for a prior person crime.
- Priority 3 - Designates a routine CFS that requires a field response for a prior property crime.
- Priority 4 - Designates a routine CFS that requires a field response for all other incidents.
- Priority 5 - Designates tasks which are administrative in nature.
- Priority 6 - Designates non-emergency lobby calls at HQ.
- Priority 7 - Designates a priority telephonic CFS
- Priority 8 - Designates an officer telephonic call only (no Cadets)
- Priority T - Designates those routine CFS that only require a telephonic response

The below chart lists the number of CFS dispatched by the FPD in 2018 and the respective priority level:

PRIORITY	NUMBER OF CALLS FOR SERVICE
<b>0</b>	40,317
<b>1</b>	109,629
<b>2</b>	67,747
<b>3 TO 9</b>	30,245
<b>TOTAL</b>	<b>247,938</b>

Depending on the nature of the CFS the FPD estimates a CSO could handle 30% or more of the priority 2 through T CFS. In a one week time period in February 2019, the average response time for an officer to arrive on scene after the FPD received the call is listed by priority in the following chart:

<b>PRIORITY</b>	<b>RESPONSE TIME (MIN:SEC)</b>
<b>0</b>	7.65
<b>1</b>	14.60
<b>2</b>	99.36

Based on the above numbers a CSO could have handled approximately 30,000 of the calls for service in 2018. Although it would be difficult to estimate the actual reduction, this would have a positive impact on the response time for priority 2 calls, not to mention the priority 3 through T CFS. Another positive aspect of additional CSOs is the benefit of enhancing community based policing by allowing the patrol officers time to engage with the public between calls and reducing the arrival time for a member of the FPD to arrive on scene, whether it is a sworn officer or a CSO. Presently, the officers are going from one call to another waiting call without having time between the calls to speak to the community or conduct proactive policing. This demand on the officers has been witnessed first-hand by this office and Mayor Brand’s Citizens’ Public Safety Advisory Board during their individual ride alongs.

There are additional factors which could support whether the FPD elects to address the staffing levels of the CSOs. The California Commission on Peace Officer Standards and Training (P.O.S.T.) require an individual receive 664 hours of training, which is equivalent to six months, before they receive certification to be a sworn peace officer. In addition, the FPD requires an additional 16 weeks of training with a Field Training Officer before the newly hired officer is permitted to function on their own, which brings the total training to ten months. The CSO training requirement is five weeks before they are able to function on their own. It should be pointed out the FPD has not hired a CSO since 2009 therefore the actual training requirement could possibly be amended for a new hire.

The other significant factor is the cost of personnel in comparing the two positions. The total compensation for a new officer, which includes benefits plus salary, is \$93,600 per officer. While the total compensation for a newly hired CSO is \$54,700. The difference in cost between the positions would allow for almost two CSOs to be hired for each officer hired. This is not to say the CSO could or should replace the sworn officer positions, however until the city is able to fully return the staffing of sworn officers to at least the level of 2009 more consideration should be given to increasing the staffing of CSOs.

Below are the staffing levels for the position of CSO in 2009:

<b>JOB CLASS</b>	<b>AUTHORIZED</b>	<b>VACANCIES</b>	<b>FILLED</b>
<b>CSO I/II</b>	43	8	35
<b>SR CSO</b>	21	2	10
<b>TOTAL</b>	<b>64</b>	<b>10</b>	<b>54</b>

Presently the FPD has six CSOs compared to 54 in 2009, which is a reduction of nearly 90%. It is worth noting; during the preparation of this report the OIR addressed an organization who requested a presentation for their members. A member of the group commented on the lack of

CSOs compared to a few years ago within Fresno. The comment from the member was unsolicited without any prior knowledge of this report being prepared. Within a few hours after the presentation this office received a complaint from a disabled resident who waited over five hours for a response to a burglary at his storage facility. The complainant recognized since the burglary had occurred during an unknown time frame the request for the FPD to respond was solely to obtain a report for insurance purposes. The availability of a CSO could have handled this CFS quicker and as a result enhanced the community based policing efforts within the City of Fresno.

To put the lack of CSOs into perspective the benchmark cities were contacted by the OIR to determine their staffing levels of CSOs. Benchmark cities were identified under the Transparency in City Government Act, Resolution 2015-202, on November 12, 2015. Ten cities were identified at that time to be used when comparing Fresno to other California cities in order to display full transparency to the residents of Fresno. The chart below also lists the other categories which contribute to the demand placed on personnel, sworn and non-sworn, of the FPD.

DATA COMPARISON FOR FRESNO AND BENCHMARK CITIES						
POLICE DEPARTMENTS	POPULATION	2017 911 CALLS	2018 911 CALLS (THRU JUNE)	DISPATCHERS*	SWORN OFFICERS	CSO**
FRESNO	532,703	387,755	194,840	103	831	6
ANAHEIM	356,308	147,417	72,032	32	387*	3
BAKERSFIELD	388,092	244,859	122,733	36	396*	32
LONG BEACH	466,203	294,437	121,805	66	817*	4
OAKLAND	426,410	202,288	116,540	68	741*	58
RIVERSIDE	335,048	171,734	84,246	50	350*	14
SACRAMENTO	513,330	193,464	130,509	91	666*	22
SAN DIEGO	1,453,775	603,375	307,604	169	1,764*	21
SANTA ANA	334,811	152,517	72,564	32	313*	5 FT; 1 PT
STOCKTON	314,584	264,632	126,618	53	436*	29

\*Per P.O.S.T. as of 1/03/2019

\*\*Per respective PDs as of 12/2018

As indicated above, the FPD has less CSOs than six of the other benchmark cities. Of the six cities with more CSOs, five of the cities are smaller in population than the City of Fresno. Another benefit of having additional CSOs would be the front lobby staffing of the individual district police stations. At the present time each of the five district police stations are not staffed to accommodate walk-in service for the community. It is recognized several district stations may require outfitting the front lobby area with safety equipment for the protection of the CSO due to the fact they are unarmed and unable to address issues which may require a sworn officer. However, the CSO could handle many routine requests from the public, many of which are listed on pages 20 and 21 of this report. Providing the services at the respective district policing stations would eliminate the need for the community to travel into downtown and request the

same services from the FPD headquarters office. Thus this service would also enhance community based policing for the City of Fresno.

**RECOMMENDATION #1:** It is recommended the FPD consider increasing the staffing levels of the CSOs. As referenced in this report, the CSOs would positively impact the response time by the FPD for lower priority CFS, and also enhance the efforts of community based policing presently being implemented by the FPD.

### REPORT SUMMARY

Below are the levels of discipline implemented by the FPD for officers and employees who were determined to be in violation of FPD Policies or Procedures:

DISCIPLINE ISSUED	2013	2014	2015	2016	2017	2018	2019 1 <sup>st</sup> QTR
TERMINATIONS	5	3	5	7	3	2	1
RESIGNED IN LIEU OF	1	1	0	0	1	0	0
RETIRED	0	0	0	0	0	0	0
DEMOTION	0	0	0	0	0	0	1
SUSPENDED	15	14	13	16	19	21	5
PAYMENT IN LIEU OF	0	1	0	0	0	1	0
FINES	0	0	1	0	0	0	0
LETTERS OF REPRIMAND	11	7	11	9	9	9	5
<b>TOTAL</b>	<b>32</b>	<b>26</b>	<b>30</b>	<b>32</b>	<b>32</b>	<b>33</b>	<b>12</b>

The intent of the quarterly report is to ensure the residents of Fresno there is a neutral review conducted of the FPD’s actions, to include when a complaint is filed. It is recognized there are no recommendations being made in this report regarding the completed investigations. However, the community should be assured each and every complaint, whether generated by the community or the FPD, are thoroughly reviewed to ensure the findings were supported by the evidence and the actions of the officers were within the FPD’s policies and procedures.

If you would like the OIR to speak to your group or organization please contact our office at the number or email listed below. Residents are once again reminded there is a process in place to review, and if warranted, initiate an investigation. Also, answers to questions regarding this process can be found on the OIR website, or by contacting the OIR directly at the following telephone number or email address:

<https://www.fresno.gov/oir>

Telephone: (559) 621-8617

Email: [Maira.Aguilar@Fresno.gov](mailto:Maira.Aguilar@Fresno.gov)

John A. Gliatta  
Independent Reviewer  
Office of Independent Review

## FPD RESPONSES TO THE LAST QUARTER RECOMMENDATIONS

**Recommendation #1:** Several BWCs were obscured due the officers using rifles which blocked the cameras affixed to their dominate side shoulders. This is not the first incident where BWC cameras were blocked when officers were deploying rifles in high risk incidents. The FPD should consider having the BWC affixed to the opposite shoulder of the dominate hand unless the officer is using an eyeglass mounted BWC.

**FPD Response:** *Officers have a choice to mount their issued BWC on either shoulder, or on their glasses. Mounting it on their glasses has resulted in reports of headaches or pain to the ear caused by the weight of the BWC caused by prolonged use on the arm of the glasses. If officers do mount the BWC on their glasses, they only do so for a part of their shift to minimize the discomfort it may cause. While the placement of the BWC on the dominant side shoulder has sometimes caused the BWC to be blocked, placing it on the non-dominant shoulder may not be the solution. The officer, when deploying the rifle will cant his/her body, placing the body at angle which will aim the camera away from the direction the rifle is pointed. This has been observed in cases where officers who routinely place the BWC on the non-dominant side (shoulder) are deploying the rifle. Additionally, some officers place their radio mic on the non-dominant shoulder and cannot accommodate the BWC and the radio mic on the same side.*

**RECOMMENDATION #2:** It is recognized these oversights are partly due to the infrequent assignments to immediate level supervisors. Therefore, to avoid the oversights it is recommended the internal form or document used when the tasking is directed to an immediate supervisor contain language which reminds the supervisor of the need to advise the complainant the call is being recorded.

**FPD Response:** *On 12/12/18, a Chief's memorandum was distributed to all personnel informing them that whenever they are recording a statement on an administrative matter, they must first inform the party of their intent to record their statement prior to tape recording. The memo also reminded personnel that tape recording without this advisement could constitute a violation of PC 632, the California Invasion of Privacy Act. The Internal Affairs Manual also contains this advisement when tape recording administrative matters.*

		
<b>MEMORANDUM</b>		
<b>DATE:</b>	December 12, 2018	
<b>TO:</b>	ALL DEPARTMENT PERSONNEL	
<b>FROM:</b>	JERRY P. DYER, Chief of Police Office of the Chief	
<b>SUBJECT:</b>	RECORDED STATEMENTS	
<p>Department personnel responsible for handling administrative matters are sometimes required to interview members of the public. When conducting an interview on an administrative matter such as a receipt of complaint or internal affairs investigation, which requires a statement be tape recorded, Department personnel must first inform the party of their intent to tape record <i>prior</i> to tape recording their statement. This applies regardless if the interview is being conducted in person or on the phone.</p> <p>Unless the Department member is recording as part of a criminal investigation, this notification is required to avoid a potential violation of PC 632, the California Invasion of Privacy Act. All recordings should include introductory information at the beginning of the recording to avoid any future dispute regarding the notification having been given.</p>		
JPD/lc		

**RECOMMENDATION #3:** In view of the language added to the Procedure 321 which formally addressed the issue, it is recommended periodic oral reminders be made at briefings by patrol supervisors. It is recognized officers are faced with an abundance of responsibilities and routinely are responding from one call to another without a break between calls. An oral reminder may not totally eliminate the issue, but it will aid in reducing the number of incidents if the supervisors deliver the periodic reminders.

***FPD Response:** Procedure 321 “Field Contacts” was revised to include language under the “Arrests” heading which states the following: “Members shall ensure that a prisoner’s property is secured and not damaged while in the member’s care. Members should refrain from placing a prisoner’s property on their patrol vehicle whenever possible to minimize the risk of inadvertently leaving it there prior to transport.” Additionally, Field Commanders have made this a briefing topic on a regular basis, reminding officers of the policy. As a result, Internal Affairs has seen a dramatic reduction in allegations of lost prisoner property.*

### **§END OF 2019 FIRST QUARTER REPORT§**