



OFFICE OF INDEPENDENT REVIEW

**REPORT FOR THE PERIOD OF
APRIL 1, 2019 TO JUNE 30, 2019**

**John A. Gliatta
Independent Reviewer**

**Maira Aguilar
Community Coordinator**

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.

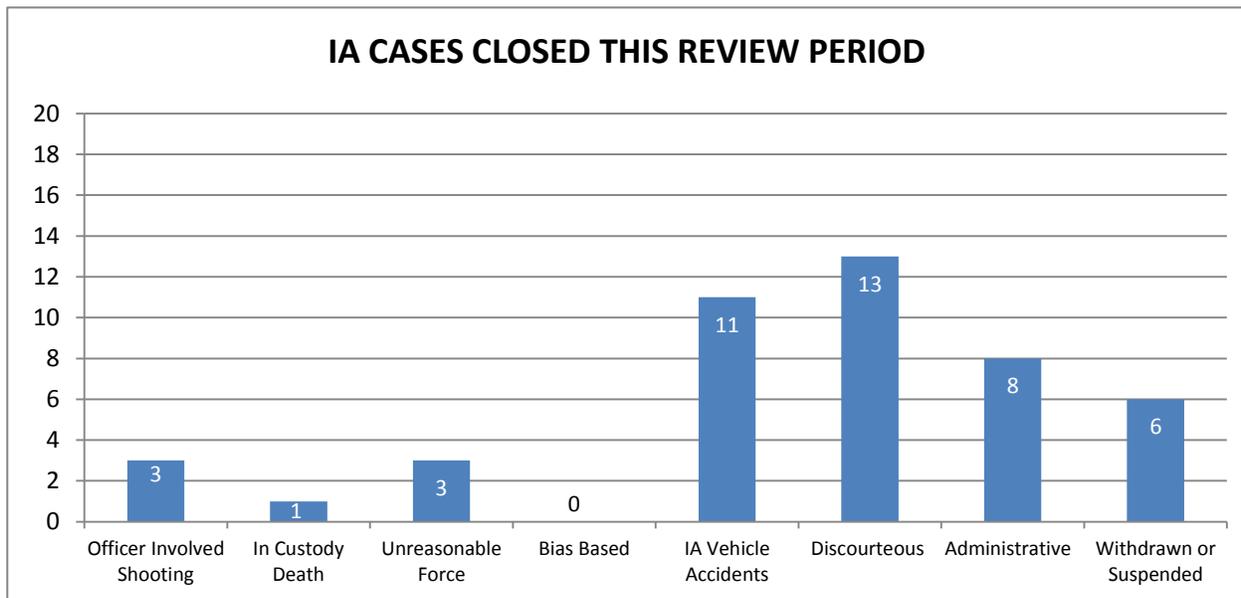
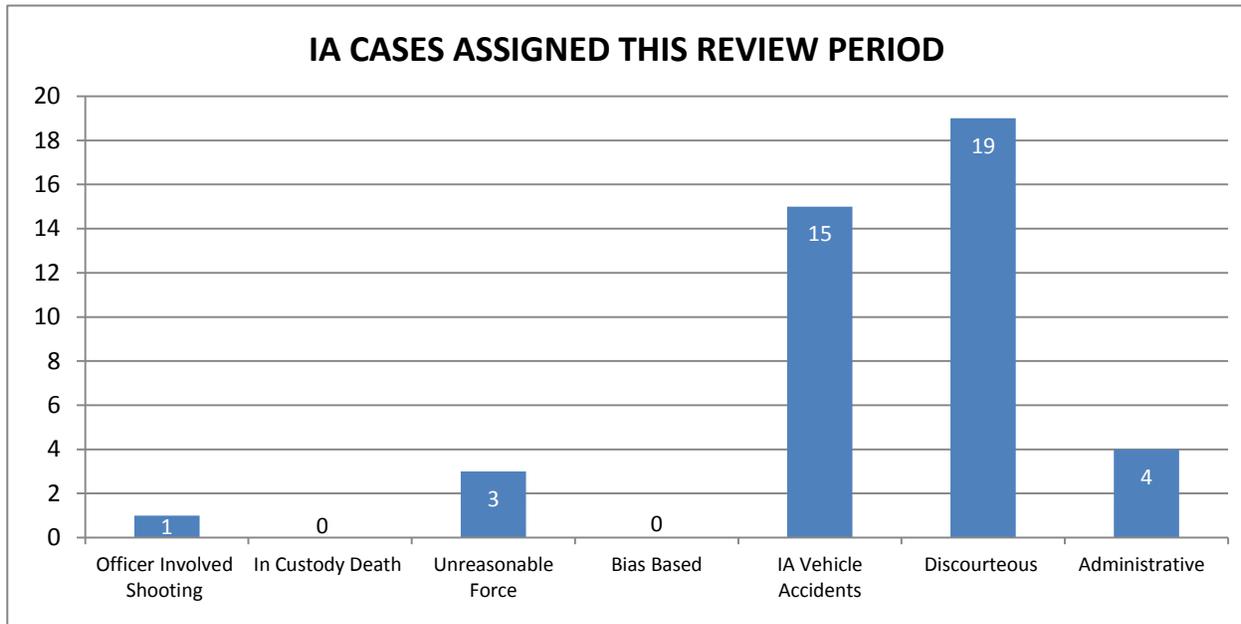
OIR REPORT FORMAT

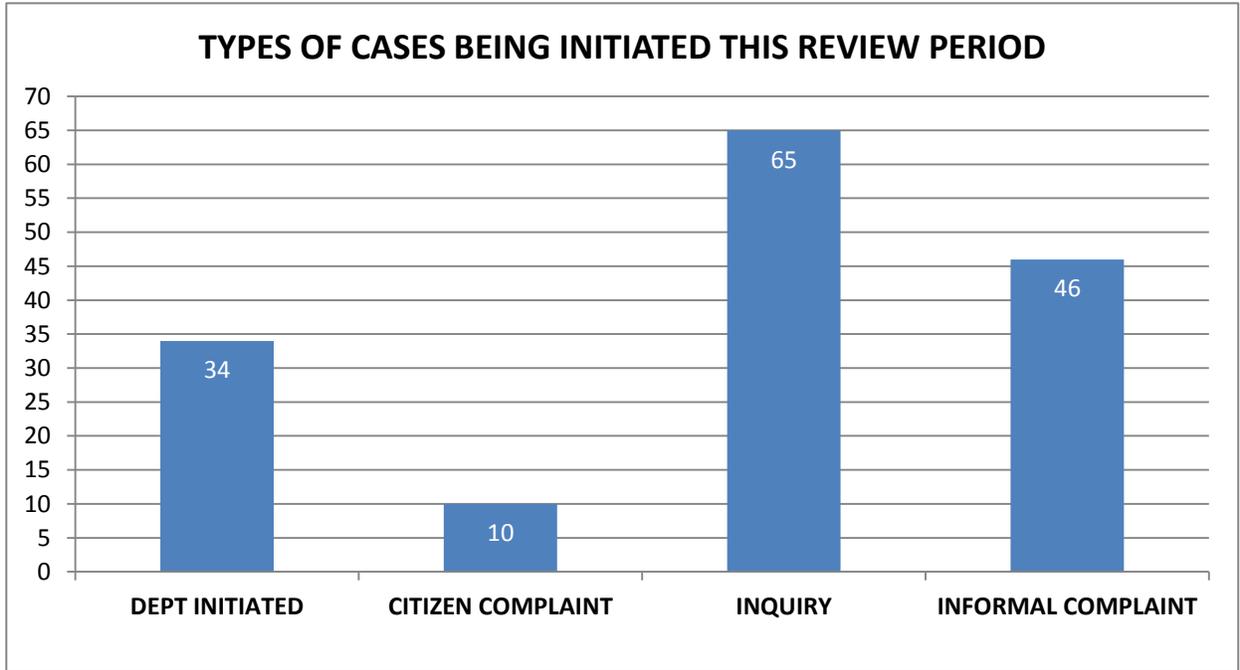
The OIR adheres to the following guidelines, format, and definitions in all quarterly reports:

- 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’s 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.
- All FPD responses to OIR recommendations, to include if the FPD implemented policy or procedure change(s) in response to recommendation(s) listed in the previous quarterly report will be addressed in the section which appears following the summary section of this report.
- Beginning with the 2018 fourth quarter report, cases were 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.

REVIEW OF INTERNAL AFFAIRS INVESTIGATIONS

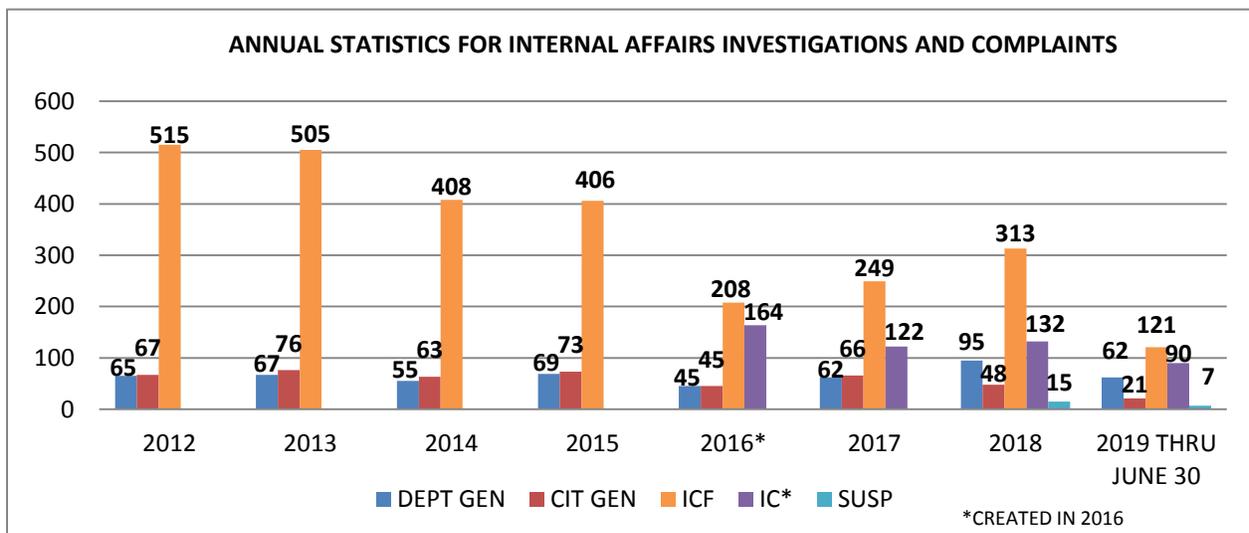
The following charts list the number and types of IA cases assigned and closed during the second quarter of 2019. For classification purposes Discourteous Treatment also includes cases in which the officer was accused of conduct unbecoming of a police officer. The classification of Administrative Matters 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.



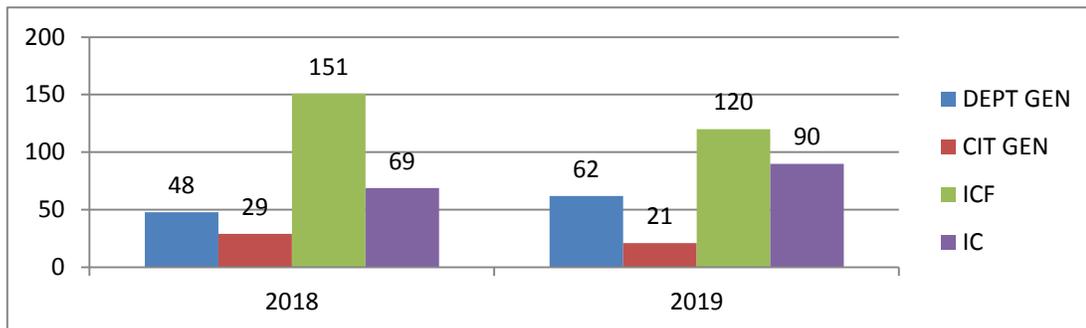
COMPLAINTS ASSIGNED BY POLICING DISTRICT

The following chart reflects the complaints assigned by policing district for the second 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 SECOND QUARTER OF 2019									
ASSIGNED	NE	NW	SE	SW	CENT	NON DISTRICT	COMCEN	WITHDRAWN/SUSPENDED	TOTAL
IA CASES	6	7	5	7	9	9	1	6	50
INFORMAL COMPLAINTS	8	7	7	9	9	4	2	0	46
INQUIRIES	18	13	5	13	9	6	0	1	65
2nd QTR TOTALS	32	27	17	29	27	19	3	7	161

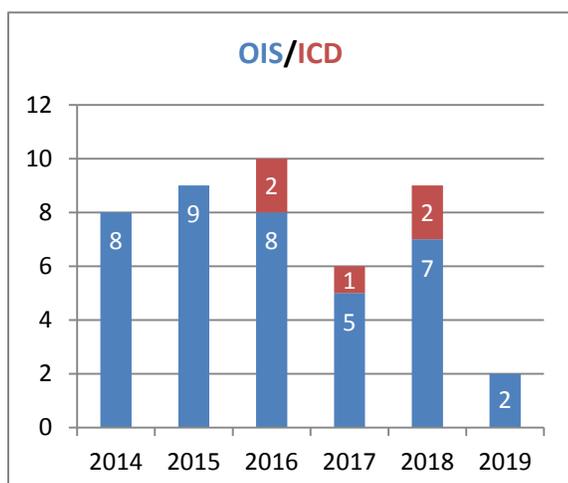
COMPARISON OF COMPLAINTS FOR FIRST TWO QUARTERS



EXPLANATION OF TERMS AND ABBREVIATIONS

UNF	UNFOUNDED: 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	EXONERATED: 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	NOT SUSTAINED: THE INVESTIGATION FAILED TO DISCLOSE SUFFICIENT EVIDENCE TO CLEARLY PROVE OR DISPROVE THE ALLEGATION WITHIN THE COMPLAINT
SUS	SUSTAINED: THE INVESTIGATION DISCLOSED SUFFICIENT EVIDENCE TO PROVE THE TRUTH OF THE ALLEGATION IN THE COMPLAINT BY THE PREPONDERANCE OF THE EVIDENCE.
P	PENDING: THE INVESTIGATION HAS NOT BEEN COMPLETED
O	OFFICER: IF FOLLOWED BY A 1, 2, 3, ETC., INDICATES MORE THAN ONE OFFICER WAS BEING INVESTIGATED
RAI	REQUESTED ADDITIONAL INFORMATION WAS MADE BY OIR BEFORE A DECISION COULD BE MADE
NR	NOT REVIEWED: OIR DID NOT REVIEW THE CASE DUE TO FPD FINDING OF SUSTAINED
CP	COMPLAINING PARTY: THE PERSON WHO FILED THE COMPLAINT
SUSP	SUSPENDED: THE OFFICER/EMPLOYEE RESIGNED OR RETIRED PRIOR TO THE CONCLUSION OF THE INVESTIGATION
DATE ASSIGNED IS THE DATE THE CASE WAS ASSIGNED TO AN IA INVESTIGATOR, NOT THE ACTUAL DATE OF OCCURRENCE	

OFFICER INVOLVED SHOOTINGS (OIS) & IN-CUSTODY DEATHS (ICD) 2014 THRU 2019



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
18-0106	8/2/2018	4/4/2019	W/IN POL	W/IN POL	DEPT ALLEGED AN IN CUSTODY DEATH
18-0097	7/21/2018	5/29/2019	W/IN POL	W/IN POL	SUBJECT FIRED AT RESIDENTS AND OFFICERS- FATAL
18-0132	10/18/2018	5/10/2019	W/IN POL	W/IN POL	O SHOT SUBJ ARMED WITH A HANDGUN
18-0139	11/12/2018	4/22/2019	W/IN POL	W/IN POL	O SHOT KNIFE WIELDING SUSPECT WHO CHARGED Os
19-0001	1/5/2019	P			O SHOT SUSPECT THREATENING WITH AX
19-0072	6/8/2019	P			O SHOT SUSPECT THREATENING Os WITH AX & KNIFE

During the second quarter of 2019 three OIS and one ICD investigations were 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 and ICD cases. 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 OIS/ICD cases in which the FPD IA investigations were completed during the second 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 officers and witnesses interviews and body worn cameras (BWC).

IA2018-0097: On July 20, 2018, at 9:45 PM, the FPD received several 9-1-1 calls regarding a male, hereafter referred to as the suspect, threatening motel guests with a firearm. The information provided by the callers varied on the type of weapon being used to threaten the guests. The weapon descriptions included a handgun, rifle, and a shotgun. As officers arrived on scene and attempted to make contact with motel guests the officers were shot at by someone from within a motel room. The first officer arrived on scene at 9:47 PM. The officers were able to determine the room from which the shots were being fired and also the identity of the suspect.

Over the next two hours the officers attempted to de-escalate the situation by making announcements to the suspect by using a patrol car's public address system. The guest in the room directly over the suspect's room confirmed the announcements were audible and were being repeated by the FPD. The guest heard the FPD announce the suspect's mother and sister were present and urged the suspect to put down the weapon and exit the room.

The suspect refused to comply with the FPD's request and responded by cursing at the officers and firing his weapon in the direction of the officers and other rooms in the motel. The suspect also broke out the window of his room and began throwing items out through the broken window. At one point he threw out the television set which was mounted in the room. Because of the absence of a loud sound when the weapon was being fired the officers were uncertain of the caliber of the weapon or if the weapon was outfitted with a silencer. The weapon viewed from a distance also made it difficult to determine the type of weapon. Below is a photograph of the weapon taken after the incident was over.



The suspect climbed out of the window and pointed the rifle in the direction of the FPD officers who were seeking cover behind patrol vehicles and other vehicles parked in the lot. Two officers fired single shots at the suspect and did not strike him. The suspect then climbed back through the window and into his room. A short time later the suspect climbed out through the window again with the rifle in hand and another officer fired one round striking the suspect who fell back into the room. EMS was staged nearby and immediately was escorted in once the room was secured by the FPD officers. The suspect was later determined to have died from the single gunshot wound.

It was then determined the suspect was armed with a Swarm Maxxim .177 caliber pellet rifle. The threat presented by a pellet gun could not be dismissed by the officers on scene. A weapon

of this type is also considered a deadly weapon and this level of a threat is supported by research and the manufacturer of the weapon, GAMO Outdoor, USA. The below information is taken directly from the GAMO website and manual:

THIS AIRGUN IS NOT A TOY AND IS RECOMMENDED FOR ADULT USE ONLY. MISUSE OR CARELESS USE MAY RESULT IN SERIOUS INJURY OR DEATH. DANGEROUS WITHIN 500 YARDS (457 METERS).

⚠ WARNING GAMO AIRGUNS ARE NOT TOYS. GAMO AIRGUNS ARE RECOMMENDED FOR USE BY THOSE 18 YEARS OF AGE OR OLDER. ADULT SUPERVISION REQUIRED. MISUSE OR CARELESS USE MAY CAUSE SERIOUS INJURY. DO NOT BRANDISH OR DISPLAY YOUR AIRGUN IN PUBLIC. IT MAY CONFUSE PEOPLE AND IT MAY BE A CRIME. **POLICE AND OTHERS MAY THINK AN AIRGUN IS A FIREARM.** DO NOT CHANGE THE COLORATION OR MARKINGS TO MAKE IT LOOK MORE LIKE A FIREARM. BUYER AND USER SHOULD CONFORM TO ALL LAWS GOVERNING THE USE AND OWNERSHIP OF THEIR AIRGUN. THE PERSON HANDLING THE AIRGUN AND ANYONE NEARBY SHOULD ALWAYS WEAR PROTECTIVE EYEWEAR. READ ALL INSTRUCTIONS BEFORE USING. ALWAYS USE CARE AND SHOOT SAFELY.

Some may question the use of deadly force when dealing with a suspect armed with a .177 pellet rifle. In order to articulate how deadly a pellet rifle can be the following information was extracted from a published report titled "Pellet Guns and BB Guns: Dangerous Playthings in the Open Market. The report was published by the California Senate Office of Research in 2005. On page five of the report a statistic by the Consumer Product Safety Commission indicated from 1980 to 2000 there were 63 deaths from weapons of this type. Regardless of the documented threat level of a .177 pellet rifle, the officers were unable to determine the type of weapon based on the appearance of the weapon from their vantage point.

Based on the actions of the suspect, the officers were justified in the use of deadly force to protect themselves and the public. The suspect refused numerous requests to surrender peacefully and without incident. The suspect's actions forced the officers to defend themselves and the lives of the motel guests by using deadly force. The officer's actions were within the FPD Policy 300, Use of Force, and therefore the actions were deemed **Within Policy**.

IA2018-0106: In the previous quarterly reports this case was listed within the chart for Unreasonable Force due to the fact initially it was logged as a possible use of force issue. The suspect did resist the arresting officers requiring a certain degree of the use of force. The suspect was then booked into the Fresno County Jail (FCJ) and approximately two hours later he was discovered unresponsive in his cell. After receiving medical attention the suspect was pronounced deceased. The FPD IA then classified the matter as a possible in custody death in view of the fact the FPD was the agency that arrested and booked the suspect into the FCJ.

On August 1, 2018, the FPD responded to a 9-1-1 call regarding a female fighting with a male in the area of Fresno Street and Belmont Avenue. The caller stated the individuals were hitting each other and the male was using a walker. Responding officers did locate both parties and although the male and female were on opposite sides of the street the male was continuing to yell at the female. Both parties were detained for investigative purposes. Following the investigation it was determined the male, hereafter referred to as the suspect, would be arrested for battery on the female. A review of the BWC video and police reports documented the suspect was being uncooperative and confrontational when contacted by the FPD officers.

When the officers attempted to place handcuffs on the suspect he kicked the officers several times and spat at them. A total of ten BWC video segments recorded the interaction between the FPD officers and the suspect from the initial contact until the suspect was placed in the police transport van. When the suspect was asked if he was injured in the fight with the female he advised he was injured prior to the fight but he did not elaborate. The question and response was recorded by a BWC. A thorough review of the videos showed the officers used only the force necessary to overcome the resistance and take the suspect into custody. The officers maintained a calm demeanor and displayed professionalism throughout the interaction.

Once at the FCJ there were multiple jail cameras recording the arrival, booking procedure, and the suspect being placed into the jail holding cell. The FPD transport van arrived at FCJ at 5:20 PM and the suspect was released to the custody of the FCJ staff shortly thereafter. Although the recordings did not have an audio track the suspect can be seen moving about freely without assistance and talking with several FCJ deputies. A video recording shows the suspect walking to the holding cell while being escorted by deputies at 5:54 PM. The suspect appeared to be talking to the deputies as he was walking to the cell.

Over the next hour and 20 minutes a FCJ deputy accessed the cell to place a prisoner into the cell or speak to someone in the cell on three separate occasions. At 7:14 PM, a jail employee removed a prisoner from the holding cell. As the prisoner exited the cell he motioned back to the cell and appears to alert the employee of the suspect in the cell. The employee then called for deputies and medical staff. Deputies arrive within 30 seconds and began removing the prisoners from the holding cell in order for the medical staff to attend to the suspect. The medical staff arrived 45 seconds later and immediately began providing medical aid.

The suspect was subsequently transported to the hospital where he was pronounced deceased. The Fresno County Sheriff-Coroner's Office conducted an autopsy which determined the manner of death was by natural causes. The coroner determined the specific cause of death was atherosclerotic heart disease.

In view of the fact the amount of force applied to place the suspect in custody and to overcome resistance was within the guidelines of Policy 300, and the fact the coroner determined the suspect died of natural causes the FPD officers were **Exonerated** of the allegations.

IA2018-0132: On October 18, 2018, at 1:09 AM, the FPD received a 9-1-1 call requesting a psychological evaluation of the caller's brother, hereafter referred to as the suspect, who was making suicidal threats. The sister advised the suspect was armed with a firearm but due to the number of firearms the suspect owned the exact type of firearm he was in possession of was unknown. The sister added the suspect was willing to commit suicide by cop if the family called the police. Because the suspect also named others he wanted to harm the sister believed the FPD should be notified.

Several possible locations for the suspect were provided by the sister. Officers were dispatched to check the locations along with the FPD helicopter (AIR1). At 1:28 AM, AIR1 advised the suspect's vehicle was located in the driveway of his mother's residence. The FPD dispatch also

conducted a search within the Automated Firearms System database. It was determined the suspect owned at least five handguns and numerous other weapons of various calibers. FPD patrol units were then directed to mother's residence. At 1:46 AM, AIR1 advised an unknown individual exited the home "in a big hurry" and entered the suspect's vehicle. The individual then exited the vehicle and went back into the house. At 1:52 AM, AIR1 observed someone approach the truck again but could not determine if the person entered the truck due to large trees blocking the view. AIR1 then observed the person near the garage of the residence looking around the corner.

Through conversations with the sister it was determined the suspect's mother was in the residence. Initially it was relayed by the sister the mother said the suspect was calm but the mother locked herself in the bedroom. A short time later a FPD officer was able to contact the mother directly by phone. At this time the mother said the suspect's mood had changed and he was now upset. The mother advised she was unable to safely exit the residence based on where the suspect was in the home. Approximately one minute later the mother advised she heard the suspect kick down the bedroom door in order to enter her bedroom. At this point the mother moved to her bathroom and locked the door. This information was being relayed by radio to the officers who had set up perimeter around the home and also to AIR1.

At this time the FPD dispatch initiated ET for the radio channel (signifies the channel is on emergency traffic, meaning the only radio traffic permitted is for the call for service of the suicidal suspect). One minute and 32 seconds later the suspect was again spotted in his vehicle in the driveway by an officer who had positioned himself behind a vehicle in the roadway near the suspect's vehicle. The officer was able to relay the movements of the suspect to the other officers as he moved towards the front of a vehicle in the neighbor's driveway. At the same time another officer advised telephonic contact had been made with the suspect but he terminated the call. The suspect was then observed exiting the vehicle and heading back towards the residence. The officer in the neighbor's driveway then illuminated the suspect using the tactical light on his department issued rifle.

The officer called out for the suspect to show his hands. The suspect then turned to face the officer and as he did so he dropped a dark object he was holding in his hands. The officer then realized the suspect had dropped a handgun. The officer yelled "Drop it! Do not go for it!" The suspect had picked up the gun and the officer fearing for his life and all the other officers on scene, to include the suspect's mother if he was able to re-enter the residence, fired his weapon striking the suspect one time. BWC video confirmed these actions and the fact the suspect was facing the officer when the officer fired his weapon.

The officers then approached the suspect and provided medical aid once he was secured. The handgun was found near the right shoulder of the suspect along with an empty handgun holster found nearby. The suspect suffered a single gunshot wound and did survive.

In view of the suicidal threats made by the suspect to his family members, along with physical actions of the suspect once the officers were on scene, all who were present were concerned for their own safety. An attempt was made by the FPD crisis negotiator to have the suspect surrender and receive the medical or mental help he needed. However, the suspect refused their

efforts when he terminated the phone call from the negotiator. Once the suspect was observed with a handgun as he attempted to re-enter the residence the officer was forced to use deadly force for his own safety, the safety of the other officers on-scene, and mostly the unarmed mother locked in the bathroom who advised the suspect had just kicked down the locked bedroom door where she was previously hiding. The use of deadly force was justified per FPD Policy 300 and also per *Graham vs Connor*, and therefore was determined to be **Within Policy**.

An item worth noting was the letter sent to Chief Dyer by the suspect's father, who resides in Australia. In summary, the father expressed his appreciation for the level of compassion displayed by the FPD officers when dealing with the suspect's mother and sister following the shooting. The father also apologized for his son's actions that placed the officer in a tragic and regrettable situation.

ADDITIONAL OBSERVATIONS RESULTING IN RECOMMENDATIONS

Observation #1: During the incident an officer had established telephone contact directly with the mother, who was initially locked in the bedroom, and later relocated to a locked bathroom. During the incident the mother stated she heard the suspect kick down the bedroom door, thus causing concern for the safety of the mother. This information was being relayed to all of the officers on-scene via the radio. When the suspect returned to his vehicle and retrieved a handgun his actions significantly escalated the concern for the safety of the mother if the suspect was permitted to re-enter the residence. It was at this point when the officer attempted to gain compliance from the suspect. When the suspect refused and reached for the weapon he had dropped the officer was forced to use deadly force.

Following the shooting the mother was interviewed and stated although the suspect had gained access to her locked bedroom, she did not know how he did it since no locks or doors were broken. Additionally, the FPD served a search warrant on the residence following the OIS. A review of the numerous crime scene photos did not reveal damage to any door or lock within the house.

Since the information being relayed by the officer was provided via a call placed directly from the officer's cell phone to the mother, there was no recording of the dialogue between the two. At the time the mother was under extreme stress and there is no indication the officer was embellishing or providing less than factual information provided to her. However, the call was not being recorded and although the issue was not raised, the actions of FPD could have been questioned if the mother had recanted the statement the bedroom door was kicked by the suspect. The justification of deadly force was not based solely on the information given by the mother to the officer, however it did contribute to the overall threat level at the time of the OIS.

In *Graham vs Connor*, "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.” Thus, the fact the suspect had kicked down the door to gain access to his mother and he was now armed with a firearm provided additional justification of deadly force given officers are often forced to make a split second decision.

Recommendation #1: Time permitting, when an officer on scene initiates contact of a victim or individual who is providing crucial information which may be testimonial after the fact, efforts should be made to implement technology which would allow the call to be recorded. This will allow the call to be memorialized in the event the facts relayed by the FPD are questioned after the OIS or critical incident. Since this would be for a criminal investigation the officer is not required to obtain permission to record the conversation.

Observation #2: Another observation not directly related to the action of the OIS took place after the officer was forced to use deadly force. As standard protocol the FPD conducted a “welfare check” of the residence to ensure there were no other threats present and to safely escort any victims, in this case the mother, from the residence. As the officers were staging outside the front door the officer, who had just fired his weapon, can be heard stating several times “I’m good, I’m good” after another officer asked “you okay?” The officer then takes a position along with the other officers about ready to make entry into the residence.

However, prior to making entry they stopped to ask other officers for the name of the mother. An announcement directed at the mother was then made at the door. At that point an officer can be heard saying “Hey Sarge, want to pull him?” referring to the officer who had used deadly force. Although the officer responded “I’m good Sarge” the sergeant tells the officer “you’re out of this one, standby for now.” BWC video recorded the officer walking away from the formation of the officers while still holding his department rifle which he fired just moments before. Although not certain, if the officers had not stopped at the door to announce their presence the officer would have participated in the welfare check of the residence immediately after he was involved in an OIS. Per the FPD procedure, steps are to be taken with the involved officer following an OIS, to include providing a secure location to await for the arrival of OIS investigators.

Recommendation #2: Due to the infrequent number of occurrences all supervisors should be periodically reminded of the protocol following an OIS, specifically the handling of the officer or officers who made the decision to use deadly force. It is imperative once the threat has been stopped the officer(s) is to be isolated and his/her weapon secured for evidentiary purposes.

Observation #3: In reviewing this OIS investigation, language used in a memo regarding a risk claim implied the FPD should extend a courtesy to the claimant in view of a favorable statement provided by the claimant. The claim was for unintentional property damage caused by the FPD during the incident. The claimant was not awake at the time and did not witness any of the police action or the actions of the suspect. Therefore the statement provided by the claimant had no bearing on the finding by the FPD IA or the OIR. Additionally, Government Codes [820 – 823] afford FPD officers immunity when it is determined they acted properly and within the course and scope of their duties. Although it does not appear it was the intent, the language implies a favorable comment could have an impact on the response rendered by the FPD. This

matter was brought to the attention of IA Lieutenant, who quickly addressed the issue to ensure this language is not used in future memos.

Recommendation #3: Emphasize reports should not contain language which could be interpreted as extending favorable judgements or outcomes based on complimentary statements provided by the individual being interviewed. It appears this recommendation was immediately addressed when IA was informed by OIR. However, to continue the pledge of complete transparency the observation and recommendation is being addressed in this quarterly report.

IA2018-0139: On November 12, 2018, the FPD received a 9-1-1 call at 11:30 AM regarding a male, a retired FPD officer, who had attempted suicide. The original call was disconnected before the location information could be obtained. Approximately 30 seconds later the caller placed another 9-1-1 call to the FPD. The caller advised her husband, who was recently diagnosed with mental health issues, had attempted suicide with a knife and was now bleeding inside their home.

A two officer FPD patrol unit arrived on-scene at 11:34 AM and immediately made contact with the wife of the male in front of the residence. Once the details were provided by the wife to the officers it was determined one of the two officers had worked with the retired officer in the past. A second single officer patrol unit arrived on-scene at 11:36 AM. The wife did not believe her husband would be a threat to the FPD officers and repeated a request for the officer to help her husband. It was decided contact would be attempted by the three officers who were now on-scene in the event the male needed immediate medical attention.

The officers approached the front door of the residence, which was opened but covered by security screen door. The officer who had worked with the male called out to the male by name and also verbally identified himself. No response was received and the officer began to open the security screen door. The officer immediately observed the male laying in the entry way of the residence covered in blood. The officer called out to the male telling him it was "OK." However, the male jumped up and ran towards the officers while holding a long serrated knife in his right hand. The officer repeated "no" several times as he began backing up while drawing his Electronic Controlled Device, commonly referred to as a Taser. The officer deployed the Taser however it was ineffective as one prong struck the male's belt and the second missed him.

The officer continued to back up as the male continued forward while holding the knife in front of him pointed at the officer. The officer began to fall backwards due to objects in the front yard landscaping. At this time the second officer drew his weapon and fearing for the life of his partner, himself, and the third officer fired three rounds at the male striking him twice. Immediate medical aid was administered by the officers and EMS personnel who had been standing by in the area. The male was pronounced deceased at the scene.

The officer who had opened the front door and to make contact with the male was outfitted with a BWC. A review of the BWC revealed the interaction with the male was less than five seconds. The officer attempted to de-escalate the situation by calling out to the male and identifying himself due to their past work history. However, the male unfortunately quickly advanced on the officers while holding the knife in a threatening manner.

In view of the information presented to the officers prior to arriving on scene, plus the information verbally provided by the wife, and the deadly threat presented by the male towards the officers, the use of deadly force was justified in the matter. The second officer was in fear for his life, the life of his partner who had fallen while trying to deploy a less lethal weapon, and the third officer. The FPD Policy 300.6.1(a) was applicable in this incident, in addition to the Supreme Court decision from Graham vs Connor.

UNREASONABLE FORCE					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
18-0135	10/22/2018	P			CP ALLEGED HANDCUFFS WERE TOO TIGHT
18-0146	12/6/2018	4/13/2019	UNF/SUS*	UNF/SUS*	CP ALLEGED UNK Os USED UN FORCE AT FAIR
18-0151	12/7/2018	5/10/2019	EX	EX	CP ALLEGED O USED UNREASONABLE FORCE
18-0152	12/7/2018	P			CP ALLEGED O USED UN FORCE AND ILLEGAL ENTRY
19-0005	1/8/2019	5/31/2019	EX	EX	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
19-0047	4/17/2019	P			DEPT ALLEGED O USED UNREASONABLE FORCE
19-0048	4/17/2019	P			CP ALLEGED O USED UNREASONABLE FORCE
19-0073	6/17/2019	P			CP ALLEGED O USED UNREASONABLE FORCE

***IA2018-0146:** In this case the IA investigation determined the allegation of Unreasonable Force was Unfounded but determined two of the officers failed to activate their BWC resulting in a finding of Sustained. After reviewing the case the OIR concurred with both findings, Unfounded on Unreasonable Force and Sustained on the failure to activate their BWC.

BIAS BASED					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY

As of the end of the second quarter, there were no pending Bias Based IA cases.

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	4/17/2019	SUS	NR	CP ALLEGED CALL TAKER WAS RUDE & CONDESCENDING
18-0067	6/7/2018	6/6/2019	SUS	NR	DEPT ALLEGED O1 & O2 VIOLATED PURSUIT POLICY
18-0079	6/20/2018	4/4/2019	UNF	UNF	CP ALLEGED O IMPROPERLY TARGETED GANG MEMBERS
18-0082	7/9/2018	4/13/2019	SUS	NR	DEPT ALLEGED OFF-DUTY WAS INVOLVED IN DV
18-0099	7/23/2018	6/11/2019	SUS	NR	DEPT ALLEGED OFF-DUTY 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 WAS ARRESTED
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	5/4/2019	NS	NS	O ALLEGED SGT MADE INAPPROPRIATE COMMENT
18-0149	12/7/2018	5/31/2019	SUS	NR	DEPT ALLEGED O AND SGT DID NOT PERFORM DUTIES
19-0003	1/7/2019	P			CP ALLEGED O WAS CONSPIRING AGAINST HIM-
19-0006	1/8/2019	6/25/2019	SUSP	NR	DEPT ALLEGED EMP WAS INVOLVED IN DV INCIDENT
19-0009	1/9/2019	4/8/2019	SUS	NR	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	4/3/2019	EX	NS*	CP ALLEGED O KEPT HER IN PATROL CAR FOR EXT PERIOD
19-0020	2/8/2019	5/31/2019	SUS	NR	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	4/13/2019	SUSP	NR	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

DISCOURTEOUS TREATMENT OR CONDUCT UNBECOMING OF A POLICE OFFICER					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
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
19-0044	4/10/2019	P			CP ALLEGED O CONDUCTED IMPROPER BODY SEARCH
19-0057	4/25/2019	P			DEPT ALLEGED O MAY BE ASSOC WITH GANG MEMBER
19-0058	4/30/2019	P			DEPT ALLEGED O WAS OVER PAID FOR INJURY CLAIM
19-0059	4/30/2019	P			CP BELIEVES SHE WAS FASLEY ARRESTED
19-0061	5/7/2019	P			DEPT ALLEGED O MISSED COURT FOR SECOND TIME
19-0062	5/7/2019	P			DEPT ALLEGED O THREATENED A SUSPECT WHO FLED
19-0063	5/17/2019	P			DEPT ALLEGED O's DID NOT HANDLE DV CALL CORRECTLY
19-0064	5/17/2019	P			DEPT ALLEGED O's IMPROPERLY HANDLED A CHILD CUSTODY ISSUE
19-0065	5/28/2019	6/17/2019P	UNF	UNF	CP ALLEGED O USED EXCESSIVE FORCE/TOOK PROPERTY
19-0067	6/4/2019	P			DEPT ALLEGED O FAILED TO ADDRESS PRIORITY MATTER
19-0068	6/5/2019	P			CP ALLEGED O WAS HOSTILE AND AGGRESSIVE
19-0069	6/6/2019	P			DEPT ALLEGED Os DID NOT NOTIFY SUPV OF CONTACT BY ANOTHER AGENCY
19-0070	6/6/2019	P			CP ALLEGED Os MISHANDLED DV MATTER
19-0074	6/18/2019	P			DEPT ALLEGED EMP IMPROPER COMPUTER ACCESS
19-0075	6/18/2019	P			DEPT ALLEGED OFF-DUTY O DID NOT STOP IMMEDIATELY AFTER A TRAFFIC ACCIDENT
19-0078	6/25/2019	P			O INVOLVED IN OUT OF POLICY PURSUIT
19-0080	6/28/2019	P			DEPT ALLEGED O INVOLVED IN OFF-DUTY DUI HIT&RUN
19-0082	6/28/2019	P			CP ALLEGED O MADE A TARGETED TRAFFIC STOP
19-0084	6/28/2019	P			CP ALLEGED O WAS DISRESPECTFUL AND BIASED

***IA2019-0015:** This case was initiated by a complaint from the employee of a store which was victimized by two suspects shoplifting items from the store. Following the theft from the store

an officer located two individuals nearby who closely resembled the description of the suspects who stole from the store. While the two suspects were being detained by the officer another officer responded to the store and brought the employee to where the suspects were being detained to conduct an in-field show-up. Per FPD Procedure 607, an in-field show-up is necessary to quickly determine whether a detainee was the perpetrator of a recently committed offense. The complainant positively identified the two suspects being detained as the individuals who had just stolen items from her store. Since the items taken totaled less than \$950 the suspects were being cited for a misdemeanor with a ticket to appear in court to answer to the charge. The suspects were not handcuffed and were not physically restrained allowing them to move about in the immediate area.

The officer who transported the complainant was considered the primary officer and therefore was responsible for writing the report and citations. While the officer was preparing the report and citation the victim, hereafter referred to as the complainant, remained in the rear of the patrol car. At one point the complainant asked if she could exit the vehicle but was told she was to remain in the back seat for her own safety. Because the officer failed to activate her BWC, the amount of time the complaint remained in the back seat could not be accurately documented. However, a review of the Automatic Vehicle Locator records reflected the officer was away from the store for 30 minutes.

At one point during the incident the complaint used her cell phone to call the store manager and requested he pick her up. The complainant advised she was becoming uncomfortable and hot due to being locked in the back seat of a police car for an extended period of time. The National Weather Service indicated the temperature on this date was 97 degrees. It should be noted the officer remained in the front seat completing the report for almost the entire time with the engine and air conditioning running. However, ventilation to the back seat of a police car is restricted somewhat due to the barrier between the front and back seat of a patrol vehicle.

When the manager arrived at the scene and explained to the officer why he was there the officer was less than sympathetic towards the complainant. The officer then opened the rear door of the patrol car and permitted the complaint to leave with the owner. Prior to the complainant exiting the vehicle the suspects were given their citations and walked past the rear of the patrol car within a few feet. Due to the distance from the officer the BWC did not record what, if anything was said to the complaint as they walked by. The manager advised at least one of the suspects made a verbal threat in the direction of the complaint as he walked past the patrol car.

The IA investigation determined the officer was Exonerated of the violating Policy 341.4, Discretion (Poor Judgement). However, after thoroughly reviewing the matter, to include the available BWC video, the OIR was unable to arrive at the same finding. Below are the issues which this office felt cast enough doubt on the matter to find the allegation Not Sustained:

1. The officer did not activate her BWC upon arriving at the store which then failed to document what was said to the complainant prior to leaving the store.
2. The in-field show-up was not recorded, thus the positive identification was not documented.

3. Although the officer declined to let the complainant out of the back seat “for her own safety” she allowed the suspects to walk past the patrol car within a few feet and clearly see the complainant/victim. The store manager indicated one suspect told the complainant as he walked by that “he knew where she worked” and then made a verbal physical threat. If the safety of the complainant was an issue then removing the complainant from the scene should have been a consideration.
4. The officer advised she would need to return to the store to obtain the complainant’s statement although the complainant was seated in the patrol car for 30 minutes without being asked for a statement.
5. The distance to the store from the suspect location was less than 600 feet. The officer could have returned the complainant to the store which was less than 30 seconds away. Afterwards the officer could have returned to the suspects, who were being watched by another officer, to complete the citations and report.

To clarify the OIR finding of Not Sustained, it does not indicate the officer was at fault. It merely indicates the investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation within the complaint. A recommendation of a policy or procedure change is not being made because it is recognized in-field show-ups vary greatly for each and every case. It would difficult to establish clear guidelines of when to remove a victim/witness from the location thus it is left to the officer’s discretion based on the numerous variables.

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
18-0120	9/19/2018	6/11/2019	SUSP	NR	DEPT ALLEGED O DID NOT SECURE FPD PROPERTY
18-0123	9/28/2018	5/2/2019	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
18-0141	11/16/2018	5/29/2019	SUS	NR	CP ALLEGED O LOST/MISPLACED PROPERTY
18-0150	12/7/2018	P			DEPT ALLEGED O HAD A NEGLIGENT DISCHARGE
18-0153	12/7/2018	4/13/2019	SUSP	NR	DEPT ALLEGED O MISPLACED FPD PROPERTY
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
19-0018	2/8/2019	4/22/2019	SUSP	NR	DEPT ALLEGED O DID NOT CORRECT EVIDENCE ERROR

ADMINISTRATIVE OR PERFORMANCE MATTERS					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
19-0022	2/12/2019	P			DEPT ALLEGED ESD DID NOT WORK REQUIRED SHIFT CAUSING SHORTAGE AT COMCEN
19-0028	3/11/2019	6/17/2019	SUS	NR	DEPT ALLEGED O VIOLATED PURSUIT POLICY
19-0032	3/22/2019	4/3/2019	SUS	NR	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	5/17/2019	SUS	NR	DEPT ALLEGED O DID NOT PROPERLY SECURE RIFLE
19-0042	4/5/2019	P			DEPT ALLEGED O'S HOURS OVERLAPPED WITH TEACHING
19-0054	4/25/2019	P			DEPT ALLEGED O FAILED TO ADVISE SUPV PRIOR TO LEAVING ASSIGNMENT
19-0081	6/28/2019	P			DEPT ALLEGED O FAILED TO COMPLETE FTO PAPERWORK
19-0083	6/28/2019	P			DEPT ALLEGED EMP HAS WORK ATTENDANCE ISSUES

In view of the fact each of the completed Administrative or Performance Matters cases resulted in an IA finding of Sustained or Suspended the OIR did not conduct a second review.

IA VEHICLE ACCIDENTS					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
18-0128	10/5/2018	5/13/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
18-0145	11/28/2018	4/12/2019	SUSP	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	6/24/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0012	1/15/2019	5/13/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0013	1/17/2019	4/30/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0016	1/31/2019	5/20/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT

IA VEHICLE ACCIDENTS					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
19-0017	1/31/2019	4/3/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0019	2/8/2019	4/3/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0034	3/28/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0041	4/4/2019	6/25/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0045	4/12/2019	5/17/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0046	4/12/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0049	4/19/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0050	4/19/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0051	4/19/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0052	4/25/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0053	4/25/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0055	4/25/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0056	4/25/2019	6/25/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0060	5/1/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0066	6/4/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0071	6/10/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0077	6/21/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0079	6/25/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT

In view of the fact each of the completed Vehicle Accident cases resulted in an IA finding of Sustained or Suspended the OIR did not conduct a second review.

INFORMAL COMPLAINTS					
IC CASE NUMBER	DATE RECEIVED	COMPLETED DATED	ALLEGATION(S)-FPD FINDING(S)	OIR FINDING	DISTRICT
IC19-0045	11/3/2018	4/9/2019	INVESTIGATION HANDLING - NOT SUSTAINED INVESTIGATION HANDLING - NOT SUSTAINED INVESTIGATION HANDLING - NOT SUSTAINED INVESTIGATION HANDLING - NOT SUSTAINED	NOT SUSTAINED NOT SUSTAINED NOT SUSTAINED NOT SUSTAINED	CENTRAL
IC19-0046	12/10/2018	4/9/2019	TOW/IMPOUND ISSUES - EXONERATED	EXONERATED	CENTRAL
IC19-0047	12/17/2018	4/9/2019	GENERAL RESPONSIBILITIES - UNFOUNDED	UNFOUNDED	CENTRAL
IC19-0048	1/12/2019	4/9/2019	GENERAL RESPONSIBILITIES - UNFOUNDED GENERAL RESPONSIBILITIES - UNFOUNDED	UNFOUNDED UNFOUNDED	SE
IC19-0049	1/16/2019	4/9/2019	ARREST AUTHORITY/PROCEDURES - UNFOUNDED LANGUAGE BARRIER - UNFOUNDED	UNFOUNDED UNFOUNDED	NW
IC19-0050	1/25/2019	4/9/2019	GENERAL RESPONSIBILITIES - EXONERATED	EXONERATED	SE
IC19-0051	1/29/2019	4/9/2019	VEHICLE OPERATIONS - UNFOUNDED DISCOURTEOUS - UNFOUNDED	UNFOUNDED	SE
IC19-0052	2/3/2019	4/9/2019	DEPT PROPERTY - CARE/USAGE/DAMAGED - EXONERATED	EXONERATED	SW
IC19-0053	2/7/2019	4/9/2019	REPORT PREPARATION - FALSE/MISLEADING - UNFOUNDED REPORT PREPARATION - FALSE/MISLEADING - UNFOUNDED	UNFOUNDED UNFOUNDED	SW
IC19-0054	2/10/2019	4/9/2019	DISCOURTEOUS - NOT SUSTAINED	NOT SUSTAINED	SW
IC19-0055	2/12/2019	4/9/2019	SICK LEAVE ISSUES - SUSTAINED	SUSTAINED	NON DISTRICT
IC19-0056	3/2/2019	4/9/2019	VEHICLE OPERATIONS - UNFOUNDED	UNFOUNDED	NE
IC19-0057	3/9/2019	4/9/2019	DRIVING UNDER INFLUENCE - SUSTAINED	SUSTAINED	NON DISTRICT
IC19-0058	3/11/2019	4/9/2019	DISCOURTEOUS - UNFOUNDED	UNFOUNDED	CENTRAL
IC19-0059	2/4/2019	4/13/2019	RACIAL/BIAS BASED PROFILING - UNFOUNDED GENERAL RESPONSIBILITIES - UNFOUNDED GENERAL RESPONSIBILITIES - UNFOUNDED	UNFOUNDED UNFOUNDED UNFOUNDED	NW
IC19-0060	2/20/2019	4/13/2019	DISCOURTEOUS - UNFOUNDED GENERAL RESPONSIBILITIES - UNFOUNDED	UNFOUNDED UNFOUNDED	NE
IC19-0061	3/28/2019	5/6/2019	UNREASONABLE FORCE - UNFOUNDED	UNFOUNDED	SW
IC19-0062	2/21/2019	5/6/2019	ATTENDANCE - SUSTAINED	SUSTAINED	
IC19-0063	3/11/2019	5/6/2019	DISCOURTEOUS - SUSTAINED DISCOURTEOUS - SUSTAINED DISCOURTEOUS - SUSTAINED	SUSTAINED SUSTAINED SUSTAINED	NORTHEAST
IC19-0064	3/13/2019	5/6/2019	GENERAL RESPONSIBILITIES - NOT SUSTAINED GENERAL RESPONSIBILITIES - NOT SUSTAINED GENERAL RESPONSIBILITIES - NOT SUSTAINED GENERAL RESPONSIBILITIES - NOT SUSTAINED	NOT SUSTAINED NOT SUSTAINED NOT SUSTAINED NOT SUSTAINED	NE
IC19-0065	3/18/2019	5/6/2019	DEPT PROPERTY - LOST - SUSTAINED	SUSTAINED	NE
IC19-0066	3/25/2019	5/6/2019	HARASSMENT - UNFOUNDED HARASSMENT - UNFOUNDED	UNFOUNDED UNFOUNDED	NW
IC19-0067	3/31/2019	5/6/2019	UNREASONABLE FORCE - UNFOUNDED	UNFOUNDED	NW
IC19-0068	4/2/2019	5/6/2019	DISCOURTEOUS - UNFOUNDED	UNFOUNDED	SE

INFORMAL COMPLAINTS					
IC CASE NUMBER	DATE RECEIVED	COMPLETED DATED	ALLEGATION(S)-FPD FINDING(S)	OIR FINDING	DISTRICT
IC19-0069	4/2/2019	5/6/2019	CONDUCT UNBECOMING ON/OFF DUTY - UNFOUNDED	UNFOUNDED	NE
IC19-0070	4/10/2019	5/6/2019	DEPT PROPERTY - LOST - SUSTAINED	SUSTAINED	CENTRAL
IC19-0071	4/11/2019	5/6/2019	DISCOURTEOUS - UNFOUNDED DISCOURTEOUS - UNFOUNDED DISCOURTEOUS - UNFOUNDED	UNFOUNDED UNFOUNDED UNFOUNDED	CENTRAL
IC19-0072	3/17/2019	5/6/2019	CONDUCT UNBECOMING ON/OFF DUTY - UNFOUNDED	UNFOUNDED	NON DISTRICT
IC19-0073	4/8/2019	6/20/2019	DISCOURTEOUS - SUSTAINED	SUSTAINED	NW
IC19-0074	4/18/2019	6/20/2019	DEPT PROPERTY - LOST - SUSTAINED	SUSTAINED	SW
IC19-0075	4/18/2019	6/20/2019	CRIMINAL ACTS/FAILURE TO OBEY ALL LAWS - NOT SUSTAINED	NOT SUSTAINED	SW
IC19-0076	3/28/2019	6/20/2019	GENERAL CALL HANDLING - SUSTAINED	SUSTAINED	CENTRAL
IC19-0077	5/16/2019	6/20/2019	GENERAL RESPONSIBILITIES - SUSTAINED GENERAL RESPONSIBILITIES - SUSTAINED	SUSTAINED	NW
IC19-0078	5/29/2019	6/20/2019	DISCOURTEOUS - SUSTAINED	SUSTAINED	SW
IC19-0079	1/29/2019	6/20/2019	GENERAL CALL HANDLING - UNFOUNDED	UNFOUNDED	COMCEN
IC19-0080	2/21/2019	6/20/2019	GENERAL CALL HANDLING - UNFOUNDED	UNFOUNDED	COMCEN
IC19-0081	2/25/2019	6/20/2019	DISCRETION - UNFOUNDED	UNFOUNDED	SW
IC19-0082	3/5/2019	6/20/2019	GENERAL CALL HANDLING - UNFOUNDED GENERAL CALL HANDLING - UNFOUNDED GENERAL CALL HANDLING - UNFOUNDED	UNFOUNDED UNFOUNDED UNFOUNDED	NE
IC19-0083	4/7/2019	6/20/2019	PROPERTY- NOT DEPT OWNED - LOST/DAMAGED - UNFOUNDED	UNFOUNDED	CENTRAL
IC19-0084	4/8/2019	6/20/2019	SEARCH/SEIZURE ISSUES - UNFOUNDED	UNFOUNDED	NW
IC19-0085	4/10/2019	6/20/2019	SEARCH/SEIZURE ISSUES - UNFOUNDED	UNFOUNDED	SE
IC19-0086	4/22/2019	6/20/2019	UNREASONABLE FORCE - UNFOUNDED CRIMINAL ACTS/FAILURE TO OBEY ALL LAWS - UNFOUNDED UNREASONABLE FORCE - UNFOUNDED CRIMINAL ACTS/FAILURE TO OBEY ALL LAWS - UNFOUNDED	UNFOUNDED UNFOUNDED UNFOUNDED UNFOUNDED	SW
IC19-0087	5/11/2019	6/20/2019	GENERAL CALL HANDLING - UNFOUNDED	UNFOUNDED	CENTRAL
IC19-0088	5/18/2019	6/20/2019	DEPT PROPERTY - CARE/USAGE/DAMAGED - UNFOUNDED	UNFOUNDED	SE
IC19-0089	5/27/2019	6/20/2019	PROPERTY- NOT DEPT OWNED - LOST/DAMAGED - EXONERATED	EXONERATED	SE
IC19-0090	5/28/2019	6/20/2019	DEPT PROPERTY - LOST - SUSTAINED	SUSTAINED	NE

All 46 Informal Complaint cases were reviewed to determine if they were properly classified and if the findings were appropriate. After a thorough review all cases were determined to be classified appropriately and the correct findings were reached.

COMMUNITY COMMENTS FEEDBACK

During our community outreach we received several requests regarding updating the FPD complaint form, which appeared to be unchanged since the creation of the OIR in 2009. The FPD was receptive to the suggestions and recently updated the complaint form. The OIR would like to acknowledge the effort by the FPD in adopting the suggestions from the community.

REPORT SUMMARY

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

DISCIPLINE ISSUED	2013	2014	2015	2016	2017	2018	2019 (JAN - JUN)
TERMINATIONS	5	3	5	7	3	2	3
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	9
PAYMENT IN LIEU OF	0	1	0	0	0	1	3
FINES	0	0	1	0	0	0	0
LETTERS OF REPRIMAND	11	7	11	9	9	9	10
TOTAL	32	26	30	32	32	33	26

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. 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

John A. Gliatta
Independent Reviewer
Office of Independent Review

FPD RESPONSE TO RECOMMENDATIONS

The previous report listed one recommendation for the FPD regarding the number of Community Service Officers presently employed with the department. The recommendation is reprinted below followed by the response from the FPD to the recommendation.

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 calls for service, and also enhance the efforts of community based policing presently being implemented by the FPD.

RESPONSE FROM FPD: The Fresno Police Department recognizes the need to increase the number Community Service Officers (CSOs) and the overall benefit to safety and service by doing so. The Police Department requested 20 CSOs in the budget and 5 were approved, subject to mayoral veto.

§END OF REPORT§