



OFFICE OF INDEPENDENT REVIEW

**REPORT FOR THE PERIOD OF
JULY 1, 2019 TO SEPTEMBER 30, 2019**

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Independent Reviewer**

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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.

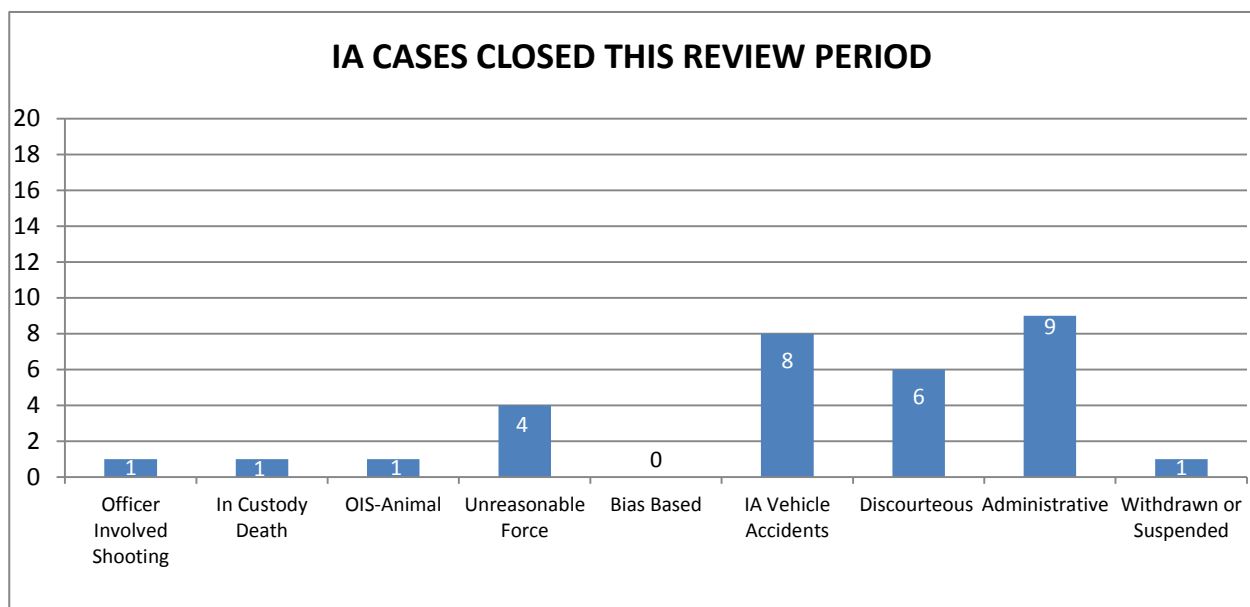
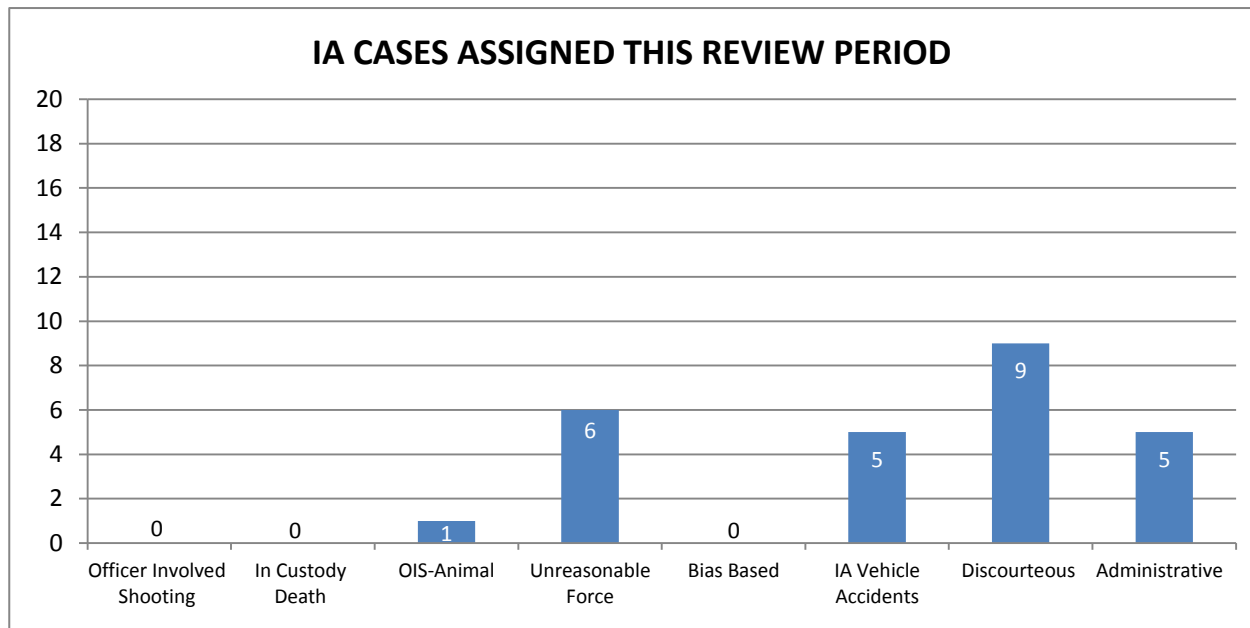
OIR REPORT FORMAT

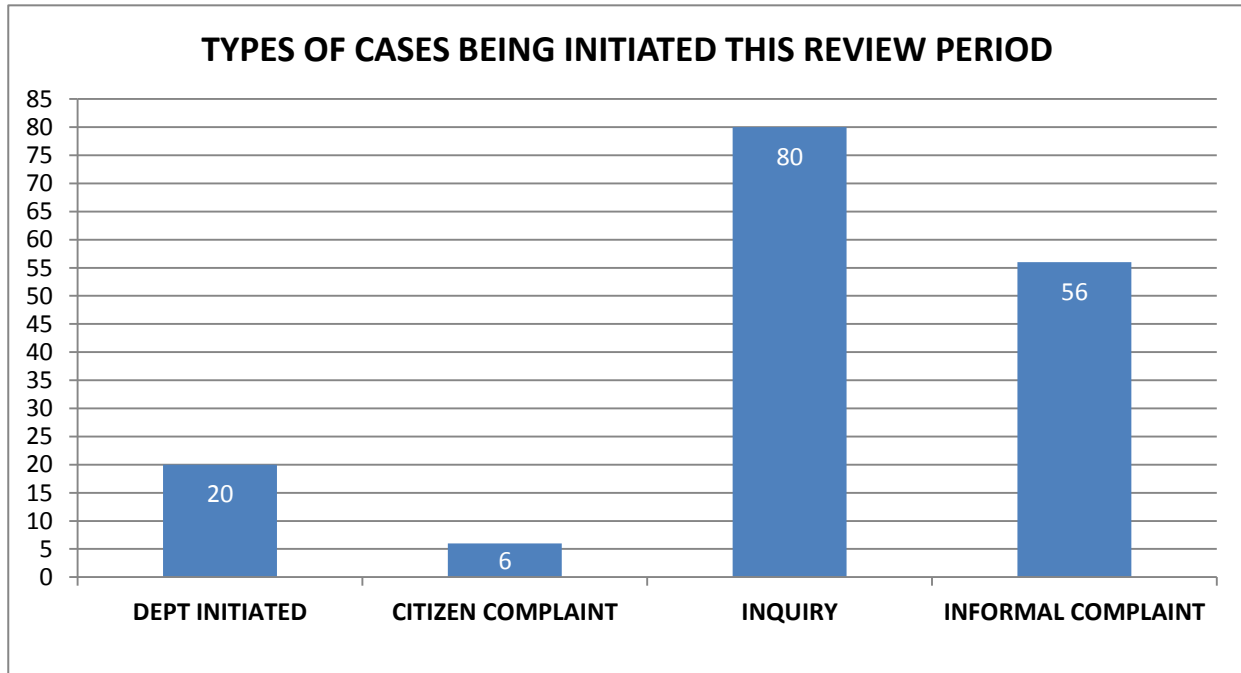
The OIR adheres to the following guidelines, format, and definitions in all quarterly reports:

- 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 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 previewed by Mayor Lee Brand, City Manager Wilma Quan, Chief Assistant City Attorney Francine M. Kanne, and Chief Andrew Hall, 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.
- Previously when the officer or employee’s employment status changed the cases were no longer listed as pending or closed which created doubt on their status. The cases are now listed as SUSP (Suspended). 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.
- Starting with this quarterly report Officer Involved Shootings involving an animal will be listed in the charts on page four. Per FPD Policy 300.6.1(a) (c) on pages nine and ten of this report, an officer is within policy to use deadly force to stop a dangerous animal, such as a dog.

REVIEW OF INTERNAL AFFAIRS INVESTIGATIONS

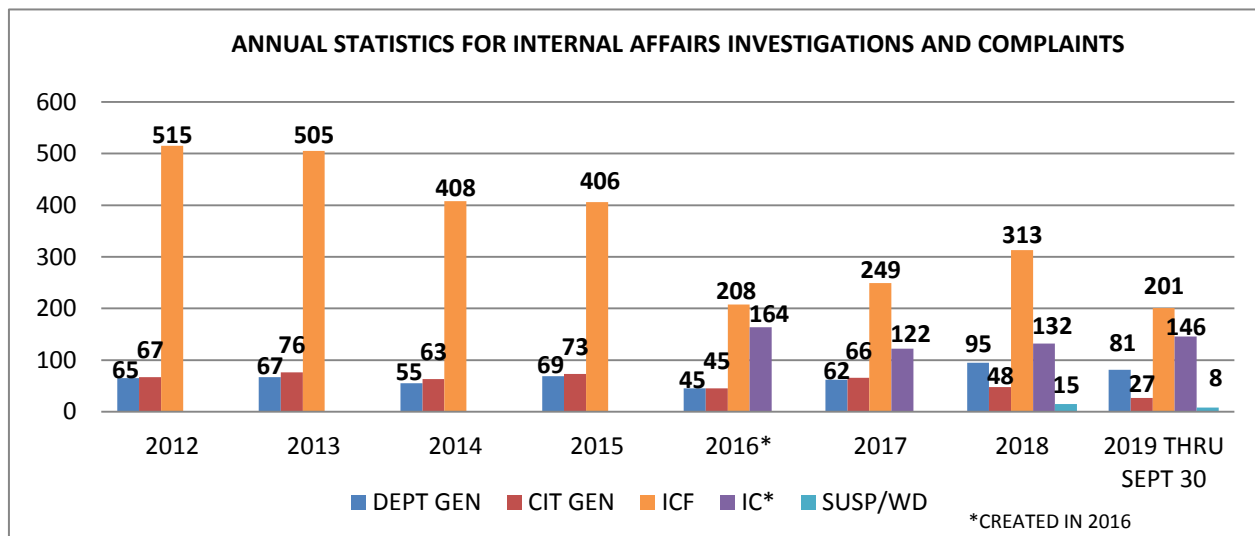
The following charts list the number and types of IA cases assigned and closed during the third quarter of 2019. For classification purposes Discourteous Treatment also includes cases in which the officer was accused of conduct unbecoming of a police officer. The classification of Administrative Matters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



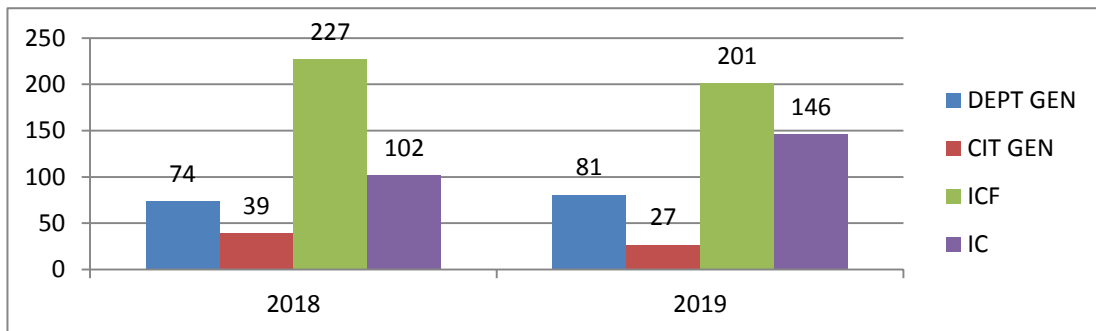
COMPLAINTS ASSIGNED BY POLICING DISTRICT

The following chart reflects the complaints assigned by policing district for the third 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 Hall 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

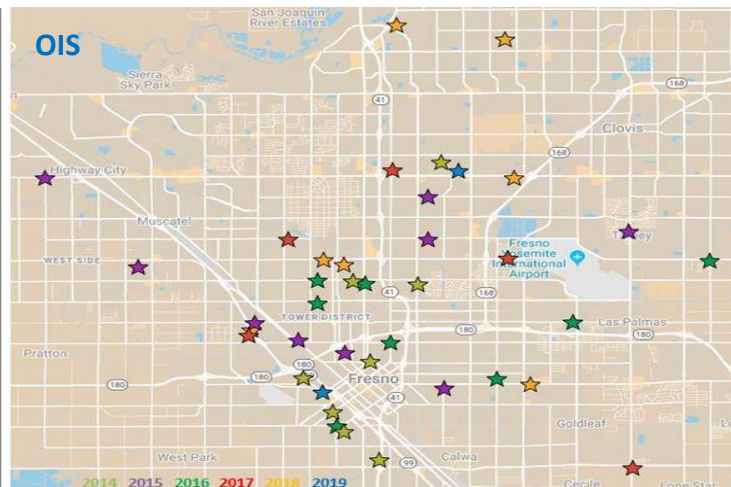
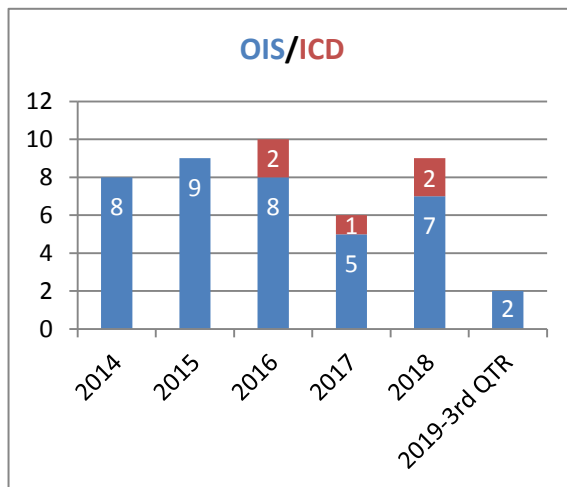
COMPLAINTS ASSIGNED BY POLICING DISTRICTS FOR THE THIRD QUARTER OF 2019									
ASSIGNED	NE	NW	SE	SW	CENT	NON DISTRICT	COMCEN	WITHDRAWN/ SUSPENDED	TOTAL
IA CASES	4	5	3	5	4	5	0	0	26
INFORMAL COMPLAINTS	3	12	6	3	12	9	11	0	56
INQUIRIES	16	10	13	18	13	10	0	1	81
3rd QTR TOTALS	23	27	22	26	29	24	11	1	163

COMPARISON OF COMPLAINTS FOR FIRST THREE 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 SEPTEMBER 30, 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	8/9/2019	W/IN POL	W/IN POL	DEPT ALLEGED AN IN CUSTODY DEATH
19-0001	1/5/2019	8/7/2019	W/IN POL	W/IN POL	O SHOT SUSPECT THREATENING WITH AX - FATAL
19-0072	6/8/2019	P			O SHOT SUSPECT THREATENING Os WITH AX & KNIFE - FATAL
19-0108	9/20/2019	9/20/2019	W/IN POL	W/IN POL	O SHOT AT AGGRESSIVELY ADVANCING DOG

During the third quarter of 2019 one OIS and one ICD investigation was completed, closed, and then reviewed by the OIR. During the same period the FPD did not have an OIS, therefore no OIS investigations were initiated.

As indicated in the chart on page seven, the FPD IA determined the officers were within policy in the completed OIS and ICD 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 OIS/ICD cases in which the FPD IA investigations were completed during the third 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).

IA2018-0038: On March 8, 2018, at 4:45 PM, the FPD responded to a disturbance call in front of Masten Towers, 1240 Broadway Street. Upon arrival the officers observed a security guard, along with a bystander, holding down a subject. Prior to the officer's arrival the subject had used a four foot metal pole to break out several windows of the business. The subject was distraught over the recent passing of his mother who lived at this location. When the security guards initially attempted to stop the subject from breaking the windows he struck one guard with the pole breaking the guard's arm. The FPD officers used minimal and an acceptable level of force to restrain the subject and take him into custody. Officers interviewed several individuals at the scene and learned one resident also struck the subject in the back of the neck and head area with an aluminum baseball bat to assist the guards in restraining the subject. According to a witness the subject blamed the business for the death of his mother and was threatening to "kill everyone."

An ambulance responded to the scene to treat the security guard and the subject. The subject refused medical attention and signed a medical release form. He was then transported to the FPD for fingerprinting and photographs. The subject was then transported to the Fresno County Jail to be booked on several felony charges plus an outstanding misdemeanor warrant. Between the times the subject was arrested and arrival at the jail there were no noteworthy incidents and the subject appeared to be compliant.

Once at the jail the subject engaged with jail booking personnel when asked questions and complied with their request to have his booking photo taken. The subject sat down in the booking area while the booking procedure was being completed. Seated directly across from the subject was another arrestee awaiting to be booked. The arrestee did not appear to provoke the subject however the subject abruptly stood-up and rapidly approached the arrestee. The subject attempted to punch the arrestee but the arrestee was able to avoid being struck and the officers quickly intervened.



After being separated from the arrestee the subject was directed to the intake nurse to answer questions in order to complete the booking process. The subject admitted to using crystal methamphetamine the day before along with taking some unknown pills. He also stated he

suffered from mental illness but had not been taking his medication. The subject then stated he was struck in the back of the head with a baseball bat earlier but did not lose consciousness. The nurse requested documentation from the ambulance medical personnel before the jail could complete the booking. The subject was moved away from the nurse's window while they awaited the documentation from the ambulance medical personnel.

As the subject was being escorted back to the bench he walked past a FPD officer who was waiting to book her arrestee. The officer and the subject had not interacted or spoke to one another prior to the subject walking past her. As the subject walked past the officer he abruptly struck her in the face with a closed left fist and was about to strike her with his right fist before other officers were able to grab him and take him to the ground. The officer who was hit attempted to assist in restraining the subject however she was bleeding significantly from her nose and mouth and had to step away.



Several officers, along with deputies, struggled with the subject for approximately five minutes in an attempt to place him in handcuffs and leg shackles. Although the subject was below the recording angle of the camera the officers were within view and appeared to use only the force necessary to restrain the subject. Based on the recorded movements of the officers it was apparent the subject was attempting to resist being restrained. The subject could be heard yelling as the officers were attempting to hold him down. Once the subject was placed in restraints he could no longer be heard yelling and was unresponsive.

Ambulance personnel were requested and arrived two minutes later. The subject was then transported by ambulance to Community Regional Medical Center. During the transport the subject went into cardiac arrest and ambulance personnel performed CPR. According to medical records the subject arrived at CRMC with a strong pulse but not breathing. The subject was treated in the trauma department and eventually moved to the intensive care unit (ICU) and placed on life support. The subject remained in the ICU until he was removed from life support and pronounced deceased on March 17, 2019.

Because the subject was in the custody of law enforcement personnel at the time he required medical attention, a full autopsy, to include a toxicology examination, was conducted by the Fresno County Coroner's Office. Fresno County Chief Forensic Pathologist determined the cause of death to be "*Acute Methamphetamine Toxicity*". The Coroner's report indicated the subject suffered from no serious physical ailments or injuries prior to his death. Other than minor abrasions and contusions as a result of his confrontation with the security guards at Masten Towers, and the officers in the booking area of the jail, the subject suffered from no physical injuries.

The toxicology report indicated the subject had a potentially toxic level of Methamphetamine in his system at the time of the incident at the jail but showed no other drugs or alcohol.

RESULTS	
Specimen: Peripheral Blood (Green Top Vial) Sample	
Complete Drug Screen: Methamphetamine detected. No other common acidic, neutral or basic drugs detected. No Ethyl Alcohol detected.	
d-Methamphetamine = 0.88 mg/L d-Amphetamine = 0.18 mg/L	
Blood Methamphetamine Ranges	Blood Amphetamine Ranges
Effective Level: (0.01 - 0.05 mg/L)	Effective Level: (0.02 - 0.15 mg/L)
Potentially Toxic: (0.2 - 5 mg/L)	Potentially Toxic: (0.2 mg/L)

In summary, the amount of force used by the FPD officer to restrain the subject was within policy of the FPD. In addition, the Fresno County Coroner determined the cause of death was due to the amount of methamphetamine in his system.

Although the extent of the injuries suffered by the officer punched by the subject would not elevate the level of acceptable force used by the FPD officers, it should be noted the officer suffered a broken nose and a cut requiring three stitches.

IA2019-0001: On January 5, 2019, at 5:37 AM, a 9-1-1 call was placed to the FPD requesting officers respond to an apartment in the area of North Ninth Street. The caller, who was the suspect's mother, advised the suspect had arrived at the apartment earlier that morning at approximately 2:00 AM looking for a place to sleep. The renter of the apartment was the suspect's sister, who had advised the family members the suspect was not allowed in the apartment due to the problems he has caused in the past. Because it was cold outside the mother "felt sorry for the suspect" and allowed him to enter. The suspect immediately locked himself in the bathroom and the mother returned to bed. The mother was now calling 9-1-1 because other family members were waking and needing to use the bathroom but the suspect remained locked in the bathroom and refused to exit.

Just prior to the mother calling the FPD the suspect heard a family member instructing the mother to call 9-1-1. The suspect exited the bathroom waving an ax above his head while threatening everyone saying not to call the police. The suspect then returned to the bathroom and locked the door. During the mother's 9-1-1 call the suspect exited the bathroom while still holding the ax. The suspect then sat on the couch with the ax and with what appeared to be an electronic control device (ECD), similar to a Taser. The FPD was advised the suspect is a known drug user and appeared to be under the influence at the time. The first officer arrived on scene at 5:45 AM.

Due to the behavior being exhibited by the suspect, and the fact he was armed with an ax and an ECD, the residents were advised to exit the apartment. Four adults and three small children then exited the apartment. Before leaving the apartment the suspect's sister asked the suspect to exit the apartment and speak to the police. The suspect refused and remained in the apartment while still holding the ax and ECD.

Nine minutes after the first officer arrived on scene verbal requests were made by a Sergeant requesting the suspect exit the apartment. The suspect responded with profanity and the sound of the ECD being activated. The Sergeant continued to try and get the suspect to exit the apartment until a FPD crisis negotiator arrived on scene at 6:44 AM. The suspect repeatedly refused the Sergeant's requests to exit the apartment.

Soon after arriving on scene the FPD received confirmation the suspect had an outstanding felony warrant issued by the California Department of Corrections and Rehabilitation. In view of the felony warrant and the threatening actions of the suspect it was determined the FPD could not permit the suspect to remain in the apartment. For the next five hours numerous attempts to have the suspect exit the apartment were made by way of a public address system, which included playing a recorded message from the family over the system. In addition to using the public address system, 77 attempts to establish contact with the suspect were made via cell phone. Sixty-five calls and 12 text messages were directed to the suspect's cell phone. The FPD even utilized a family member's cell phone in attempt to establish communication with the suspect.

Since the apartment was not the suspect's address on record the FPD began the process of securing a warrant to allow them to enter the apartment and place the suspect under arrest. At 12:30 PM the warrant was signed by a judge and the FPD began implementing a pre-planned tactical plan in an attempt to safely enter the apartment and arrest the suspect. The FPD tactical team inserted a tactical robot into the apartment to conduct a preliminary check in attempt to determine which room the suspect was occupying. The team was able to view the interior of the apartment by way of a video feed from the robot. The preliminary check failed to locate the suspect; however a bedroom door was closed which prevented the room from being checked by the robot.

At 12:35 PM, the tactical team initiated a "law enforcement entry" of the apartment. A law enforcement entry can be described as slow methodical entry and room by room clear. This type of tactical method is not what is normally portrayed in the movies where a dynamic entry method

is used. All of the rooms were cleared, with the exception of the locked bedroom, with no sign of the suspect. The locked bedroom door was then breached using a one-man ram. Before the officers entered the room a diversionary device was inserted. A diversionary device is often referred to as a flash bang. The first officer in the room was using a ballistic shield, another officer was armed with a six round less lethal 40 mm projectile launcher (fires large rubber balls), and another officer was armed with an M-4 tactical rifle.

Upon entering the bedroom room the officers spotted the suspect sitting in the immediate left corner of the room. The suspect was holding the ax in his right hand and facing the officers. Commands of “drop it, drop it” were immediately given to him. When he did not comply the officer fired two rounds from the less lethal launcher. The rounds seem to have little effect on the suspect as commands to “drop it” were repeated. The remaining four rounds from the less lethal were fired at the suspect. At this point it appeared as if the suspect was moving to approach the officer as he was raising the ax with his right hand. Fearing for the safety of the three officers already in the room the third officer fired four rounds from his M-4 rifle striking the suspect.

Additional officers then entered the room to secure the suspect. A Sergeant removed the ax from the suspect’s right hand in order for him to be handcuffed. The suspect was immediately moved to the living room allowing the officers ample space to begin administering first aid. EMS was already on scene and responded to the apartment. The suspect was then transported to the hospital where he was pronounced deceased.

In determining if the shooting was within policy the following factors were considered:

1. A 9-1-1 call was placed by the suspect’s mother advising he was under the influence and refusing to exit the bathroom.
2. When the suspect heard the family was going to call the police he exited the bathroom while holding an ax and said “do not call the (profanity) police.”
3. The suspect then exited the bathroom and sat on the couch while still holding the ax along with a Taser type device.
4. Responding officers learned the suspect was on parole and was wanted on a felony warrant for violating his conditions of parole.
5. The apartment was occupied by four adults and three small children. All occupants were requested to exit the residence for their own safety based on the actions of the suspect, along with the fact he was armed with an ax and “Taser.”
6. The FPD attempted to have the suspect exit the apartment for over six hours by using verbal requests through the open door of the apartment, 65 cell phone calls, 12 text messages, and PA announcements, which included recorded messages from his family.
7. Once inside the apartment the FPD officers gave verbal commands for the suspect to drop the ax.
8. The suspect refused to drop the ax and a less lethal launcher was used while officers were still giving commands for the suspect to drop the ax.
9. Once all six rounds were discharged from the less lethal launcher the suspect raised the ax while initiating a movement as if he was trying to get up and advance on the officers.

10. At this point the officer armed with a M-4 rifle feared for the safety of himself and the other two officers in the room fired four rounds at the suspect.

The ax was photographed by crime scene personnel and appears below:



In considering the above factors the following portions of the FPD Use of Force Policy 300 are applicable:

1. Policy 300.4, Objectively Reasonable Force
2. Policy 300.4.1, Constitutional Guidelines for Reasonable Force
3. Policy 300.4.2, Justification – Known Facts
4. 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.

In addition to the above FPD policy, the Supreme Court case *Graham vs Connor* is also applicable in this incident. The officer's actions were reasonable based on the information and situation at the time. Based upon the fact they were faced with an individual armed with an ax who refused repeated commands to drop the weapon.

In summary, the suspect was given numerous chances to end the incident in a peaceful manner. However, after repeated requests from the FPD officers, and his own family, he refused all requests to exit the apartment unarmed. Therefore, his actions left the FPD officers no choice but to use deadly force in order to protect all involved, officers and family members.

A separate IA case was initiated by the FPD when it was learned an officer on scene made a comment which was unbecoming of a police officer. It does not appear the comment had a bearing on the outcome of this incident. The FPD initiated the case prior to being contacted by the OIR on the matter. The case is presently pending and will be reviewed when completed.

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
18-0152	12/7/2018	9/20/2019	EX	EX	CP ALLEGED O USED UN FORCE AND ILLEGAL ENTRY
19-0008	1/9/2019	8/14/2019	EX	EX	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	8/29/2019	EX	EX	DEPT ALLEGED O USED UNREASONABLE FORCE
19-0048	4/17/2019	P			CP ALLEGED O USED UNREASONABLE FORCE
19-0073	6/17/2019	9/27/2019	EX	EX	CP ALLEGED O USED UNREASONABLE FORCE
19-0088	7/22/2019	P			CP ALLEGED O USED UNREASONABLE FORCE
19-0090	8/6/2019	P			DEPT ALLEGED Os USED UNREASONABLE FORCE
19-0092	8/14/2019	P			DEPT ALLEGED O USED UNREASONABLE FORCE
19-0094	8/23/2019	P			CP ALLEGED O USED UNREASONABLE FORCE
19-0102	9/9/2019	P			DEPT ALLEGED O USED UNREASONABLE FORCE
19-0109	9/24/2019	P			CP ALLEGED O USED UNREASONABLE FORCE

Four Unreasonable Force case investigations were completed during the third quarter of 2019. The IA determined the officers were exonerated in each of the cases. A thorough review of each completed case was conducted by the OIR. The OIR concurred with IA for each case.

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

There were no Bias Based complaints for the third consecutive quarter of 2019. It is recognized this is only for three quarters; however a possible contributing factor to this decrease is the mandated Bias Based training being implemented by the FPD for all officers.

DISCOURTEOUS TREATMENT OR CONDUCT UNBECOMING OF A POLICE OFFICER					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
18-0117	9/11/2018	8/12/2019	SUS	NR	CP ALLEGED OFF-DUTY O OF DOM VIOLENCE
18-0125	10/3/2018	8/13/2019	SUS	NR	DEPT ALLEGED OFF-DUTY O WAS ARRESTED
18-0142	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
19-0003	1/7/2019	P			CP ALLEGED O WAS CONSPIRING AGAINST HIM
19-0010	1/9/2019	P			CP ALLEGED O WAS DRIVING AT EXCESSIVE SPEED
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
19-0029	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 & PERMIT HIM TO SEE CHILDREN PRIOR TO TRANSPORT AFTER BEING ARRESTED
19-0044	4/10/2019	8/14/2019	EX	EX	CP ALLEGED O CONDUCTED IMPROPER BODY SEARCH
19-0057	4/25/2019	7/11/2019	UNF	UNF	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 FALSELY 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
19-0067	6/4/2019	8/29/2019	UNF	UNF	DEPT ALLEGED O FAILED TO ADDRESS PRIORITY MATTER
19-0068	6/5/2019	8/8/2019	SUSP	NR	CP ALLEGED O WAS HOSTILE AND AGGRESSIVE

DISCOURTEOUS TREATMENT OR CONDUCT UNBECOMING OF A POLICE OFFICER					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
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	9/5/2019	UNF	UNF	CP ALLEGED O MADE A TARGETED TRAFFIC STOP
19-0084	6/28/2019	P			CP ALLEGED O WAS DISRESPECTFUL AND BIASED
19-0095	8/23/2019	P			CP ALLEGED Os REMOVED CURRENCY FROM VEHICLE
19-0096	8/23/2019	P			DEPT ALLEGED O WAS INVOLVED IN A DV MATTER
19-0097	8/28/2019	P			DEPT ALLEGED O WAS INVOLVED IN A DV MATTER
19-0099	9/4/2019	P			DEPT ALLEGED O LACKED DISCRETION AT OIS
19-0100	9/4/2019	P			ALLIED AGENCY ALLEGED OFF-DUTY O ACTED IMPROPERLY DURING A TRAFFIC STOP
19-0103	9/9/2019	P			CP ALLEGED O WAS SENDING UNSOLICITED TEXT MSGS
19-0104	9/9/2019	P			DEPT ALLEGED O HAD RELATIONS WHILE ON DUTY
19-0106	9/10/2019	P			DEPT ALLEGED Os ENGAGED IN OUT OF POLICY PURSUIT
19-0110	9/27/2019	P			DEPT ALLEGED O DID NOT SECURE PRISONER-ESCAPED

There were nine new cases initiated for the allegation of Discourteous Treatment or Conduct Unbecoming of a Police Officer during the third quarter. Of the nine new cases, six (67%) were initiated by the FPD when the department became aware of the alleged conduct by their personnel. The remaining three new cases were initiated based on complaints from the community. The OIR agreed with the findings reached by the FPD in each of the six completed investigations. One investigation was suspended before a finding was reached because the officer/employee separated from the FPD before the investigation was completed.

ADMINISTRATIVE OR PERFORMANCE MATTERS					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
18-0016	2/2/2018	8/16/2018	SUS	NR	DEPT ALLEGED IMPROPER USE OF FIREARM
18-0133	10/22/2018	8/12/2019	SUS	NR	DEPT ALLEGED O1 & O2 DID NOT LOCATE WEAPON ON PRISONER
18-0150	12/7/2018	8/12/2019	SUS	NR	DEPT ALLEGED O HAD A NEGLIGENT DISCHARGE
18-0156	12/7/2018	9/11/2019	SUS	NR	DEPT ALLEGED O DISREGARDED DEPT MEMO
19-0004	1/4/2019	7/11/2019	SUS	NR	DEPT ALLEGED O HAD AN ACC DISCHARGE OF LESS LETHAL WEAPON
19-0022	2/12/2019	P			DEPT ALLEGED ESD DID NOT WORK REQUIRED SHIFT CAUSING SHORTAGE AT COMCEN
19-0035	3/28/2019	8/29/2019	SUS	NR	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	SUS	NR	DEPT ALLEGED SGT DID NOT COMPLETE REPORT
19-0043	4/5/2019	9/30/2019	SUS	NR	DEPT ALLEGED O PLACED MISD SUSPECT ON DCB
19-0054	4/25/2019	8/14/2019	SUS	NR	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
19-0085	7/8/2019	P			DEPT ALLEGED O DID NOT MAINTAIN DEPT VEHICLE
19-0086	7/9/2019	9/17/2019	SUS	NR	DEPT ALLEGED O DID NOT SEATBELT PRISONER
19-0087	7/11/2019	P			DEPT ALLEGED O SPENT EXCESSIVE TIME AT HOME
19-0105	9/10/2019	P			DEPT ALLEGED O USED DEPT COMPUTER TO ACCESS PROTECTED INFO
19-0107	9/10/2019	P			CP ALLEGED O MISPLACED PROPERTY POST ARREST

Five new cases alleging administrative violations were initiated during the third quarter. Of the ten completed investigations the FPD found the officers/employees were at fault in all ten (100%) of the cases. The discipline imposed in the cases ranged from documented oral reprimands to significant suspensions without pay.

IA VEHICLE ACCIDENTS					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
19-0007	1/8/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0034	3/28/2019	8/8/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0046	4/12/2019	7/11/2019	SUS	NR	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	7/11/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0052	4/25/2019	8/9/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0053	4/25/2019	8/29/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0055	4/25/2019	9/10/2019	SUS	NR	DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0060	5/1/2019	7/11/2019	SUS	NR	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	9/20/2019	SUS	NR	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
19-0089	8/2/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0091	8/9/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0093	8/22/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0098	9/3/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT
19-0101	9/5/2019	P			DEPT ALLEGED O INVOLVED IN AT FAULT ACCIDENT

There were five new Vehicle Accident IA investigations initiated during the third quarter which is a reduction of 66% compared to the previous quarter. Eight of the pending investigations were completed during the review period. In each of the completed investigations the FPD determined the officer/employee was at fault in the accident and the imposed discipline accordingly ranging from documented oral reprimands to suspension without pay.

INFORMAL COMPLAINTS					
IC CASE NUMBER	DATE RECEIVED	COMPLETED DATE	ALLEGATIONS(S)-FPD FINDINGS(S)	OIR FINDING	DISTRICT
IC19-0091	2/13/19	8/15/19	PERFORMANCE - SUSTAINED	SUSTAINED	NORTHWEST
IC19-0092	1/10/19	8/31/19	DEPT PROPERTY - CARE/USAGE/DAMAGED - EXONERATED	EXONERATED	COMCEN
IC19-0093	3/23/19	8/31/19	DISCOURTEOUS - SUSTAINED	SUSTAINED	COMCEN
IC19-0094	3/28/19	8/31/19	DRIVING UNDER INFLUENCE - UNFOUNDED DISCOURTEOUS - UNFOUNDED SOCIAL MEDIA ISSUES - UNFOUNDED GENERAL RESPONSIBILITIES - UNFOUNDED	UNFOUNDED UNFOUNDED UNFOUNDED UNFOUNDED	NON-DISTRICT
IC19-0095	3/31/19	8/31/19	CRIMINAL ACTS/FAILURE TO OBEY ALL LAWS - UNFOUNDED	UNFOUNDED	NORTHEAST
IC19-0096	4/10/19	8/31/19	DISCRETION - NOT SUSTAINED	NOT SUSTAINED	SOUTHEAST
IC19-0097	4/17/19	8/31/19	CRIMINAL ACTS/FAILURE TO OBEY ALL LAWS - SUSTAINED	SUSTAINED	COMCEN
IC19-0098	4/21/19	8/31/19	GENERAL CALL HANDLING - UNFOUNDED	UNFOUNDED	CENTRAL
IC19-0099	5/2/19	8/31/19	CONDUCT UNBECOMING ON/OFF DUTY - UNFOUNDED	UNFOUNDED	COMCEN
IC19-0100	5/6/19	8/31/19	GENERAL CALL HANDLING - SUSTAINED GENERAL CALL HANDLING - SUSTAINED	SUSTAINED SUSTAINED	COMCEN
IC19-0101	5/16/19	8/31/19	DEPT PROPERTY - LOST - SUSTAINED	SUSTAINED	NORTHWEST
IC19-0102	5/16/19	8/31/19	GENERAL RESPONSIBILITIES - UNFOUNDED	UNFOUNDED	CENTRAL
IC19-0103	5/18/19	8/31/19	REPORT PREPARATION - FALSE/MISLEADING - UNFOUNDED	UNFOUNDED	CENTRAL
IC19-0104	5/19/19	8/31/19	DISCOURTEOUS - UNFOUNDED	UNFOUNDED	NON-DISTRICT
IC19-0105	5/21/19	8/31/19	GENERAL RESPONSIBILITIES - UNFOUNDED	UNFOUNDED	NORTHEAST
IC19-0106	5/29/19	8/31/19	DISCOURTEOUS - UNFOUNDED	UNFOUNDED	COMCEN
IC19-0107	5/31/19	8/31/19	DISCOURTEOUS - UNFOUNDED	UNFOUNDED	CENTRAL
IC19-0108	6/2/19	8/31/19	CRIMINAL ACTS/FAILURE TO OBEY ALL LAWS - UNFOUNDED CRIMINAL ACTS/FAILURE TO OBEY ALL LAWS - UNFOUNDED CRIMINAL ACTS/FAILURE TO OBEY ALL LAWS - UNFOUNDED CRIMINAL ACTS/FAILURE TO OBEY ALL LAWS - UNFOUNDED	UNFOUNDED UNFOUNDED UNFOUNDED UNFOUNDED	SOUTHEAST
IC19-0109	6/5/19	8/31/19	DISCOURTEOUS - UNFOUNDED	UNFOUNDED	NORTHWEST
IC19-0110	6/9/19	8/31/19	DISCOURTEOUS - NOT SUSTAINED	NOT SUSTAINED	COMCEN
IC19-0111	6/10/19	8/31/19	GENERAL CALL HANDLING - NOT SUSTAINED	NOT SUSTAINED	
IC19-0112	6/17/19	8/31/19	REPORT PREPARATION - FALSE/MISLEADING - NOT SUSTAINED REPORT PREPARATION - FALSE/MISLEADING - NOT SUSTAINED	NOT SUSTAINED NOT SUSTAINED	NORTHWEST
IC19-0113	6/20/19	8/31/19	DISCOURTEOUS - UNFOUNDED	UNFOUNDED	CENTRAL
IC19-0114	6/25/19	8/31/19	SEARCH/SEIZURE ISSUES - EXONERATED	EXONERATED	SOUTHWEST
IC19-0115	6/29/19	8/31/19	GENERAL CALL HANDLING - UNFOUNDED	UNFOUNDED	SOUTHEAST
IC19-0116	6/30/19	8/31/19	ARREST AUTHORITY/PROCEDURES - UNFOUNDED	UNFOUNDED	CENTRAL
IC19-0117	7/3/19	8/31/19	DISCOURTEOUS - SUSTAINED	SUSTAINED	NORTHWEST
IC19-0118	7/4/19	8/31/19	DEPT PROPERTY - LOST - EXONERATED	EXONERATED	CENTRAL
IC19-0119	7/9/19	8/31/19	DISCOURTEOUS - UNFOUNDED	UNFOUNDED	COMCEN
IC19-0120	7/12/19	8/31/19	DISCOURTEOUS - UNFOUNDED	UNFOUNDED	COMCEN
IC19-0121	7/12/19	8/31/19	PRISONER'S PROPERTY - LOST/DAMAGED/RETURN OF - SUSTAINED	SUSTAINED	SOUTHWEST

INFORMAL COMPLAINTS					
IC CASE NUMBER	DATE RECEIVED	COMPLETED DATE	ALLEGATIONS(S)-FPD FINDINGS(S)	OIR FINDING	DISTRICT
IC19-0122	7/16/19	8/31/19	DEPT PROPERTY - CARE/USAGE/DAMAGED - EXONERATED	EXONERATED	CENTRAL
IC19-0123	7/24/19	8/31/19	INVESTIGATION HANDLING - UNFOUNDED	UNFOUNDED	SOUTHWEST
IC19-0124	7/26/19	8/31/19	DISCRIMINATION - UNFOUNDED DISCRIMINATION - UNFOUNDED DISCRIMINATION - UNFOUNDED	UNFOUNDED UNFOUNDED UNFOUNDED	CENTRAL
IC19-0125	2/2/19	9/19/19	GENERAL RESPONSIBILITIES - SUSTAINED	SUSTAINED	SOUTHEAST
IC19-0126	2/19/19	9/19/19	PERFORMANCE - SUSTAINED	SUSTAINED	SOUTHEAST
IC19-0127	4/30/19	9/19/19	DEPT PROPERTY - LOST - SUSTAINED	SUSTAINED	CENTRAL
IC19-0128	6/4/19	9/19/19	DEPT PROPERTY - CARE/USAGE/DAMAGED - SUSTAINED	SUSTAINED	SOUTHEAST
IC19-0129	6/17/19	9/19/19	DISCOURTEOUS - SUSTAINED	SUSTAINED	COMCEN
IC19-0130	6/24/19	9/19/19	DISCOURTEOUS - SUSTAINED	SUSTAINED	COMCEN
IC19-0131	7/2/19	9/19/19	CRIMINAL ACTS/FAILURE TO OBEY ALL LAWS - UNFOUNDED	UNFOUNDED	CENTRAL
IC19-0132	7/15/19	9/19/19	GENERAL RESPONSIBILITIES - SUSTAINED	SUSTAINED	SOUTHEAST
IC19-0133	7/17/19	9/19/19	GENERAL RESPONSIBILITIES - NOT SUSTAINED GENERAL RESPONSIBILITIES - NOT SUSTAINED	NOT SUSTAINED NOT SUSTAINED	NORTHEAST
IC19-0134	7/24/19	9/19/19	GENERAL RESPONSIBILITIES - EXONERATED	EXONERATED	NON-DISTRICT
IC19-0135	7/26/19	9/19/19	DISCRETION - UNFOUNDED	UNFOUNDED	NORTHEAST
IC19-0136	8/6/19	9/19/19	CRIMINAL ACTS/FAILURE TO OBEY ALL LAWS - NOT SUSTAINED	NOT SUSTAINED	NON-DISTRICT
IC19-0137	8/7/19	9/19/19	ATTENDANCE - SUSTAINED	SUSTAINED	NON-DISTRICT
IC19-0138	8/12/19	9/19/19	DISCOURTEOUS - UNFOUNDED DISCOURTEOUS - UNFOUNDED DISCOURTEOUS - UNFOUNDED	UNFOUNDED UNFOUNDED UNFOUNDED	NORTHWEST
IC19-0139	8/14/19	9/19/19	DEPT PROPERTY - LOST - EXONERATED	EXONERATED	NORTHWEST
IC19-0140	8/15/19	9/19/19	SEARCH/SEIZURE ISSUES - EXONERATED	EXONERATED	CENTRAL
IC19-0141	8/22/19	9/19/19	DISCOURTEOUS - EXONERATED	EXONERATED	NORTHWEST
IC19-0142	8/28/19	9/19/19	GENERAL RESPONSIBILITIES - UNFOUNDED	UNFOUNDED	NORTHWEST
IC19-0143	7/10/19	9/27/19	DISCOURTEOUS - UNFOUNDED	UNFOUNDED	NON-DISTRICT
IC19-0144	7/18/19	9/27/19	SEARCH/SEIZURE ISSUES - EXONERATED INTEGRITY - EXONERATED SEARCH/SEIZURE ISSUES INTEGRITY - EXONERATED	EXONERATED EXONERATED EXONERATED EXONERATED	NORTHWEST
IC19-0145	8/5/19	9/27/19	DISCRETION - UNFOUNDED DISCRETION - UNFOUNDED	UNFOUNDED UNFOUNDED	NORTHEAST
IC19-0146	8/29/19	9/27/19	DISCOURTEOUS - UNFOUNDED	UNFOUNDED	NON-DISTRICT

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 - SEPT)
TERMINATIONS	5	3	5	7	3	2	5
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	17	32	21
PAYMENT IN LIEU OF	0	1	0	0	0	0	3
FINES	0	0	1	0	0	0	0
LETTERS OF REPRIMAND	11	7	11	9	10	15	12
TOTAL	32	26	30	32	31	49	42

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 RESPONSES TO RECOMMENDATIONS

The previous quarterly report listed three recommendations for the FPD regarding the reviews conducted by this office. The recommendations are reprinted below followed by the responses from the FPD to each recommendation.

OIR 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.

FPD Response: The Department recognizes the importance of recording and memorializing phone conversations that take place between officers and victims/reporting parties/witnesses on a potential critical incident. Patrol officers are currently not issued cell phones. Doing so would require the purchase and issuance of cell phones to approximately 315 patrol officers, an expense that is not budgeted. Many officers do elect to use their personal cell phones for making phone contact with victims/reporting parties/witnesses. Provided that officers are able to legally record a phone conversation, policy will be revised to encourage officers, when time and circumstances permit, to activate their body worn camera, place their cell phone on speaker mode, and record/memorialize their phone conversations with victims/reporting parties/witnesses, when the call is one which may potentially result in a critical incident.

OIR 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.

FPD Response: Current OIS policy which outlines OIS protocol to include securing the officer's weapon, does not mention that an officer should not be involved in enforcement action immediately following their involvement in an OIS. Policy will be revised to include that following an OIS or critical incident; the involved officer should not be involved in subsequent enforcement action on that call, if it is safe and practical to do so given the circumstances.

OIR 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.

FPD Response: This recommendation pertained to a risk claim filed by a party following an OIS in which errant rounds fired by the shooting officer had struck a nearby residence. The original response to the risk claim indicated the claimant had made comments that were complimentary to the Police Department in general. The referenced favorable comments made by the claimant did not involve the OIS or the actions of any Department member on the call as

she did not witness the incident. These comments were not considered as a basis for payment of her claim and an addendum was prepared by the sergeant who prepared the original response clarifying this issue.

§END OF REPORT§