



OFFICE OF INDEPENDENT REVIEW

**REPORT FOR THE PERIOD OF
JULY 1, 2021 TO SEPTEMBER 30, 2021**

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ABOUT THE OFFICE OF INDEPENDENT REVIEW

The Office of Independent Review (OIR) works to strengthen community trust in the Fresno Police Department (FPD) by providing a neutral, third-party review of police policies, strategies, and Internal Affairs (IA) investigations. The OIR operates independently of the FPD and provides City leaders and the public with an objective analysis of policing data, actions, and outcomes. The OIR analyzes complaints filed by the community and those initiated by the department to ensure they have been investigated fairly and thoroughly. Periodically, the OIR provides 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



Please contact our office if you would like us to present at your next community event. Contact information can be found on the last page of this report.

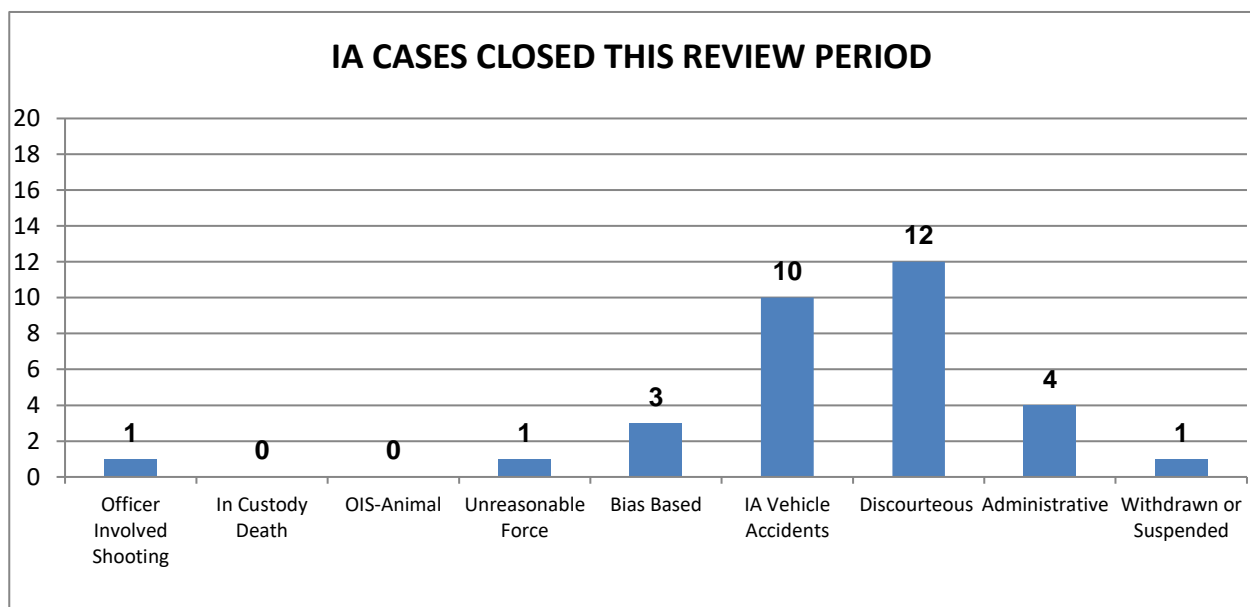
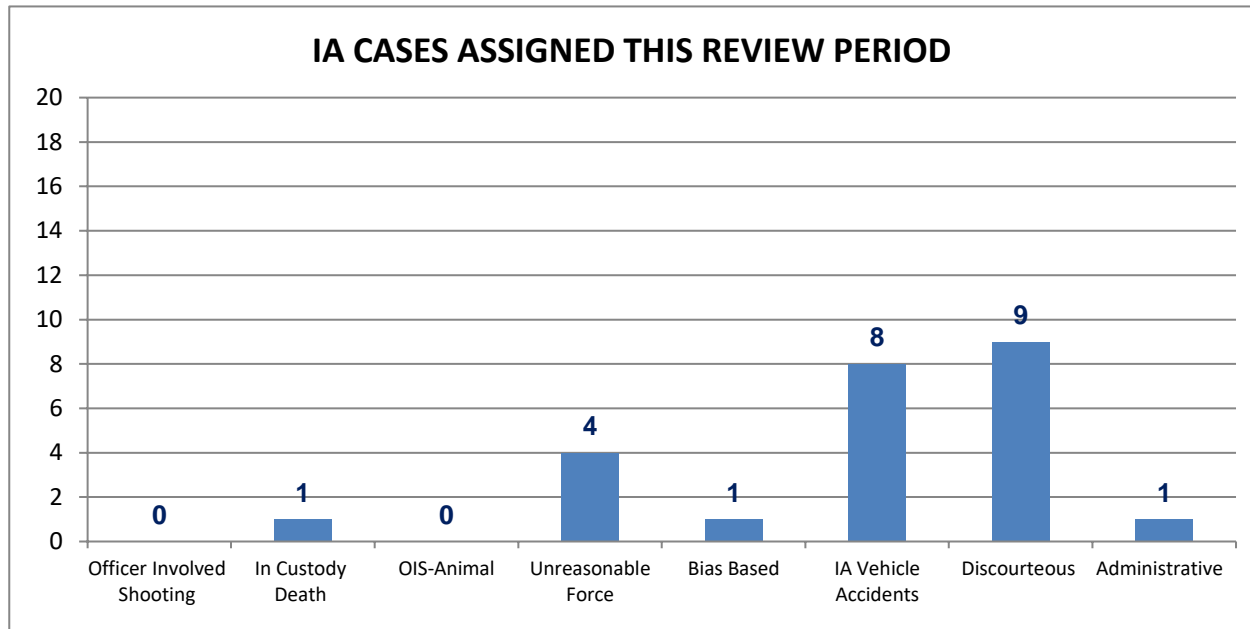
OIR REPORT FORMAT

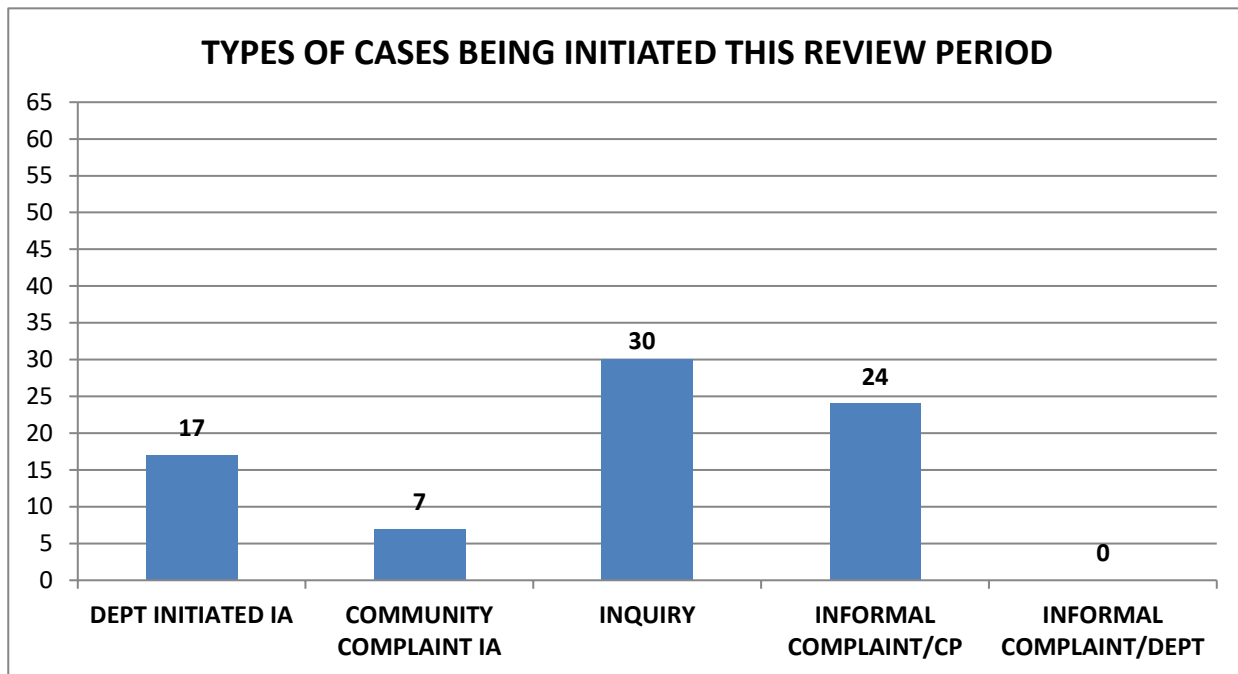
The OIR adheres to the following guidelines, format, and definitions in all quarterly reports:

- 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 Os, or 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.
- The report is previewed by Mayor Jerry Dyer, Assistant City Manager Francine Kanne, Assistant City Attorney Tina Griffin, and Chief Paco Balderrama, 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 change(s) in response to recommendation(s) listed in the previous quarterly report, will be addressed before 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 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.
- Officer Involved Shootings (OIS) involving an animal are listed in the OIS charts. Per FPD Policy 337.7.9, an officer is within policy to use deadly force to stop a dangerous animal, such as a dog.

REVIEW OF INTERNAL AFFAIRS INVESTIGATIONS

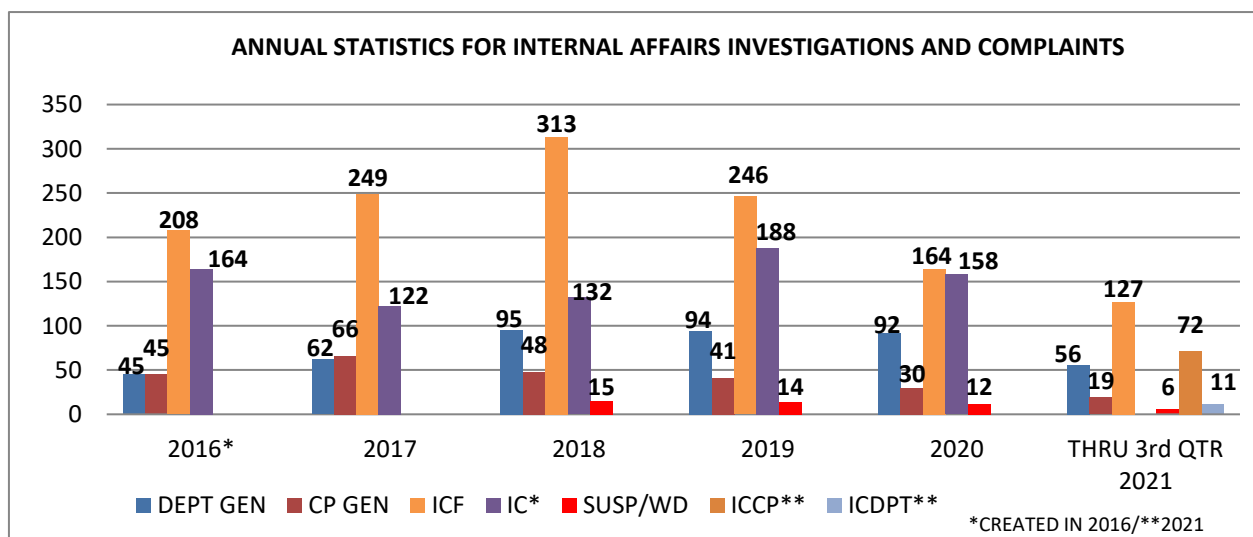
The following charts list the number and types of IA cases assigned and closed during the third quarter of 2021. For classification purposes, Discourteous Treatment also includes cases in which the officer was accused of conduct unbecoming of a police officer. The classification of Administrative Matters includes officers or employees accused of violating policies 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. As of January 1, 2021, the informal complaints will be categorized by the manner the complaint was initiated, either by the community (CP) or the department (DEPT).



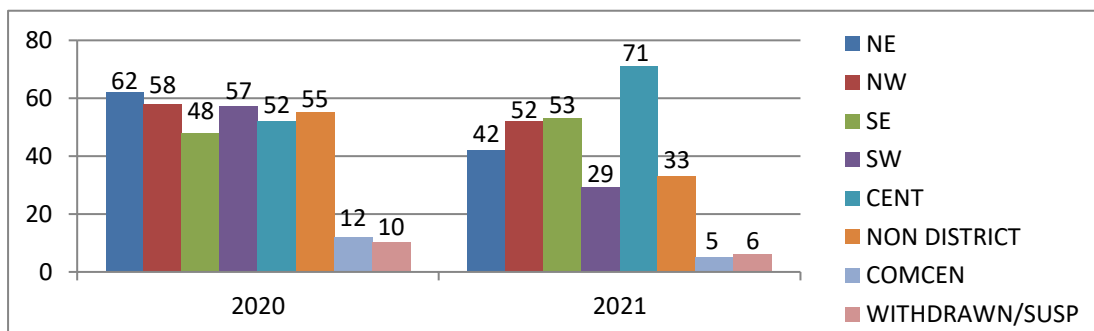
COMPLAINTS ASSIGNED BY POLICING DISTRICT

The following charts reflect the complaints assigned in each of the five policing districts for the third quarter of 2021, and a third quarter comparison between 2020 and 2021. Effective January 1, 2021, the district informal complaints are listed by the manner in which the complaint was initiated, community complaint (CP), or department generated (DEPT).

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

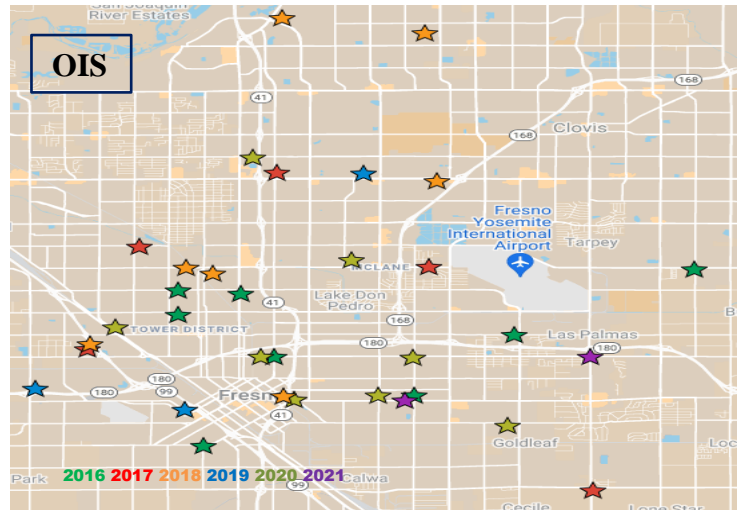
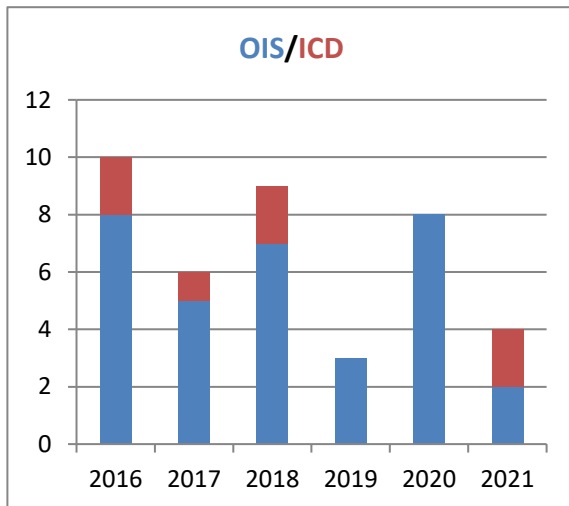
COMPLAINTS ASSIGNED BY POLICING DISTRICTS FOR THE THIRD QUARTER OF 2021									
ASSIGNED	NE	NW	SE	SW	CENT	NON DISTRICT	COMCEN	WITHDRAWN/ SUSPENDED	TOTAL
IA CASES	3	3	6	1	5	5	1	1	25
INFORMAL COMPLAINTS-CP	2	3	6	4	6	3	0	0	24
INFORMAL COMPLAINTS-DEPT	0	0	0	0	0	0	0	0	0
INQUIRIES	4	5	3	1	9	7	1	0	30
3rd QTR TOTALS	9	11	15	6	20	15	2	1	79

FIRST THREE QUARTER COMPARISONS OF COMPLAINTS BY DISTRICT



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 OR THE CASE WAS SUSPENDED
CP	COMPLAINING PARTY: THE PERSON WHO FILED THE COMPLAINT
SUSP	SUSPENDED: THE OFFICER/EMPLOYEE RESIGNED OR RETIRED PRIOR TO THE CONCLUSION OF THE INVESTIGATION
BWC	BODY WORN CAMERAS: Device affixed to uniforms which records audio and video of interaction with public
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) 2016 THROUGH 2021



COMPLETED AND PENDING OFFICER INVOLVED SHOOTING INVESTIGATIONS

OFFICER INVOLVED SHOOTING (OIS) AND IN CUSTODY DEATHS (ICD)					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
21-0002	1/20/2021	8/5/2021	W/IN POL	W/IN POL	O1 SHOT SUSPECT WHEN HE LUNGED AT O2 WHILE HOLDING TWO UNKNOWN OBJECTS, FATAL
21-0027	4/15/2021	P			Os WERE FIRED UPON, RETURNED FIRE; NON-FATAL
21-0047	6/1/2021	P			SUBJECT WAS UNDER THE INFLUENCE AND LATER DIED AFTER ARRIVING AT HOSPITAL

OFFICER INVOLVED SHOOTING (OIS) AND IN CUSTODY DEATHS (ICD)					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
21-0072	9/4/2021	P			SUBJECT APPEARED TO BE UNDER THE INFLUENCE AND RESISTED ARREST FOR ATTEMPTED MURDER, CARJACKING, AND KIDNAPPING. HE STOPPED BREATHING AND WAS PRONOUNCED DECEASED AFTER BEING TRANSPORTED TO THE HOSPITAL

During the third quarter one new ICD case was initiated, and one OIS case investigation was completed and closed. In the OIS case IA determined the shooting was within department policy. This office arrived at the same findings following a thorough review of the IA investigation. Below is a summary of the OIS review including the basis for the determination.

OIS CASE SUMMARY

In order to determine if the actions of the officers were within the FPD's [Use of Force Policy 300](#), the policy was reviewed and the applicable sections are noted in the summary below. Readers are strongly encouraged to read the policy by using the embedded hyperlink above or accessing the policy manual online at: <https://www.fresno.gov/police/records-reports/> before reading the case summary.

IA2021-0002: On Wednesday, January 20, 2021, at approximately 5:00 AM, O1 and O2 were working as a double unit, responded to Kings Canyon Road and Jackson Avenue to assist a California Department of Corrections and Rehabilitation Parole Agent (PA). The PA was in search of a parolee who had possibly cut off his ankle monitor. The PA was informed by the ankle monitoring company a "major tamper" to the monitor attached to a parolee, hereafter referred to as the subject, had occurred. In view of the subject being a high-risk sex offender, the PA contacted FPD and requested assistance in locating and arresting the subject if in fact the ankle monitor was cut.

Based on the location data provided by the ankle monitoring company the last location for the ankle monitor was near the above intersection. While enroute to the location O2 utilized the onboard computer to access identifying information on the subject. The query resulted in a photograph and additional criminal history, which included prior violations for PC148 (resisting) and PC69 (felony assault of an officer) and a recent arrest for possession of a "dirk or dagger," which is the possession of a fixed blade object capable of stabbing use.

Upon reaching the area near where the tampering had occurred O1 and O2 met the PA. O2 showed the PA the photo displayed on their onboard computer and confirmed the photograph was of the subject being sought. A search of the immediate area was then initiated. The PA located the ankle monitor in a nearby parking lot with visible signs it had cut off the subject's ankle. The PA informed O1 and O2 the subject was now arrestable for being a parolee at large.

The PA began taking photographs of the monitor and pointed to the northern portion of the parking lot where dumpsters were located. The PA advised he learned the subject was known to sleep near the dumpsters. O1 used his flashlight to illuminate the area just to the west of the dumpster where an unknown individual was observed seated on a concrete curb.

O1 and O2 began walking towards the individual. As they approached the individual, O1 recognized him as the subject. O1 said, "How you doing (name)?" The subject was seated with his hands concealed by his bent legs and O1 then said, "Keep your hands where I can see them." The subject responded but his response was unintelligible. The subject immediately began to stand up and turn towards O2, who was now to the right of O1. The subject was holding an object in each hand, with his right arm extended outward towards O2. O1 yelled "Stop" but the subject continued lunging towards O2, who was approximately five feet from the subject. O1 drew his department issued handgun and fired three rounds at the subject who immediately fell to the ground.

O1 radioed shots had been fired and requested additional units and EMS code three (lights and sirens). O1 and O2 handcuffed the subject and began rendering first aid until EMS arrived and took over saving life saving measures. Unfortunately, the subject was pronounced deceased in the parking lot.

Both officers were outfitted with body worn cameras (BWC) which they had activated prior to encountering the subject. Although the first thirty seconds of the recordings did not contain audio due to the buffering, audio was captured prior to O1 contacting the subject. Following a personal review of O1's BWC a summary of the recording was prepared and appears below:

00:15 PA locates the monitor in the parking lot
00:24 PA points to the area near the dumpster
00:27 O1 illuminated the area near the dumpsters with his flashlight. An individual is seen sitting on a curb.
00:32 O1 approached the individual and stated, "How you doing (name)?"
00:35 O1 says, "Keep your hands where I can see them."
00:37 The subject begins to stand up and turns towards O2. O1 yells "Stop!"
00:38 The subject continued moving quickly towards O2 with an unknown object extended outward in his left hand towards O2
00:39 O1 draws and fires three rounds at the subject who immediately drops to the ground
00:43 O1 radios shots fired and began applying handcuffs

A review of O2's BWC showed a slightly different angle than what was recorded by O1's BWC. However, it did confirm the subject was advancing directly at O2 with an object in his right hand that was extended towards O2. Still frames from the respective BWC are displayed on the next page.

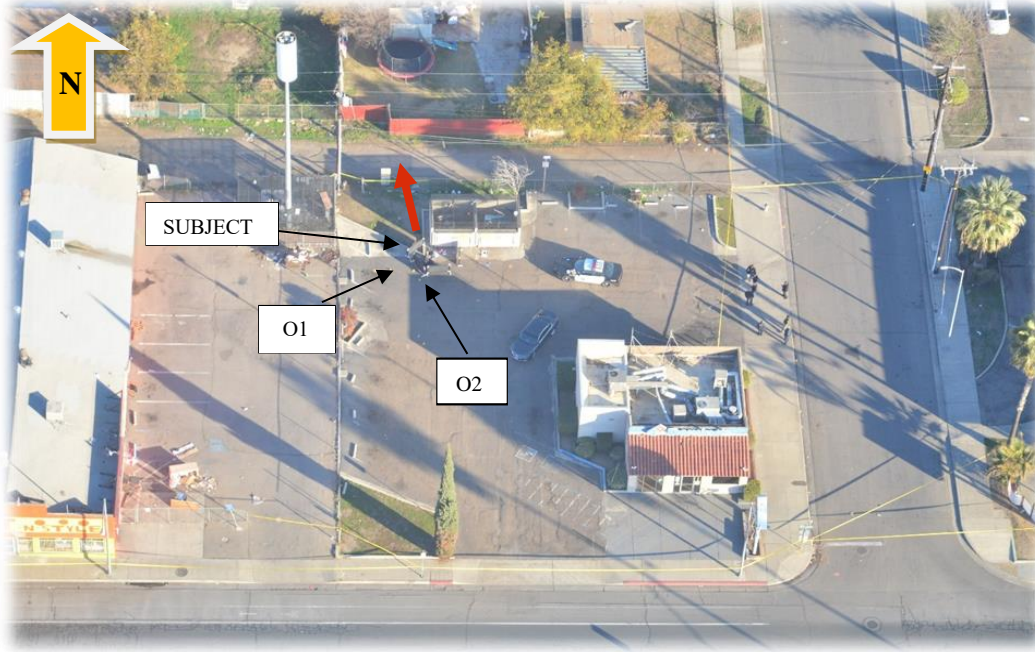


The red arrow indicates the subject holding an object in his left hand as he advanced on O2, depicted by the orange arrow. O1 drew his weapon and fired three rounds at this point. (O1's BWC)



This frame reflects the subject advancing towards O2. The edge of the dumpster enclosure is blocking the view of his left hand which held the object. (O2's BWC)

The subject did have another direction to travel if it was his intent to avoid contact with the officers. The aerial view on the next page is of the location taken several hours after the OIS. Based on the location of the officers the subject could have gone north to the alley (marked with red arrow) which was opposite from where the officers were positioned.



The above indicates the approximate area where the officers and subject were located at the time of the OIS. The PA and patrol vehicle remained in their respective spots.

O1 advised he used deadly force because he believed the subject was going to attack his partner using whatever object he was holding in his hand. Therefore, his only option was to use deadly force because he feared for the safety of his partner. It was later learned the subject was holding wire cutter pliers in his right hand and channel lock pliers in his left hand.

As stated in [FPD Policy 300](#), Use of Force, deadly force may be used when it is the level of force objectively reasonable to protect other persons and/or the officer from the imminent threat of death or serious bodily injury, specifically section 300.8(a).

Therefore, the use of force in this incident was **within policy**.

STATUS OF INTERNAL AFFAIRS INVESTIGATIONS BY CLASSIFICATION

UNREASONABLE FORCE					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
20-0036	3/31/2020	P			CP ALLEGED O USED UNREASONABLE FORCE
20-0091	9/8/2020	7/9/2021	EX x 2	EX x 2	CP ALLEGED Os USED UNREASONABLE FORCE
21-0029	4/26/2021	P			CP, A RESERVE O FROM ANOTHER AGENCY, ALLEGED O USED UNREASONABLE FORCE

UNREASONABLE FORCE					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
21-0032	4/26/2021	P			DEPT ALLEGED O USED UNREASONABLE FORCE ON AN ARRESTEE
21-0034	4/29/2021	P			CP ALLEGED O PULLED HIM FROM RESIDENCE
21-0045	5/28/2021	P			DEPT ALLEGED O USED UNREASONABLE FORCE ON AN ARRESTEE
21-0048	6/4/2021	P			CP ALLEGED Os USED UNREASONABLE FORCE
21-0051	6/23/2021	P			DEPT ALLEGED O USED UNREASONABLE FORCE AFTER A REVIEW OF REQUIRED USE OF FORCE WAS COMPLETED
21-0052	6/24/2021	P			DEPT ALLEGED O1 USED UNREASONABLE FORCE DEPT ALLEGED SGT FAILED TO TAKE ACTION
21-0053	7/7/2021	P			DEPT ALLEGED O USED UNREASONABLE FORCE AND LACKED DISCRETION
21-0054	7/7/2021	P			DEPT ALLEGED O USED UNREASONABLE FORCE
21-0067	8/20/2021	P			CP ALLEGED Os USED UNREASONABLE FORCE AND KEPT HIS ID
21-0069	8/20/2021	P			CP ALLEGED O USED UNREASONABLE FORCE ON A RELATIVE

During the third quarter the FPD assigned four new unreasonable force investigations and one investigation was completed. This office reached the same finding as the FPD in the completed case.

BIAS BASED					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
20-0074	7/24/2020	7/9/2021	UNF x 3 UNF x 3	UNF x 3 UNF x 3	CP ALLEGED Os DISCRIMINATED & USED UNREASONABLE FORCE
21-0043	5/28/2021	9/3/2021	EX x 2 UNF x 2	EX x 2 UNF x 2	CP ALLEGED Os USED UNREASONABLE FORCE & EXHIBITED BIAS TOWARDS CP DURING ARREST
21-0049	6/4/2021	9/14/2021	UNF UNF	UNF UNF	CP ALLEGED O REFUSED TO ENACT CITIZEN'S ARREST CP BELIEVED O WAS BIASED BASED ON RACE
21-0066	8/19/2021	P			CP ALLEGED O MADE DISPARAGING COMMENTS ABOUT CP'S SEXUAL PREFERENCE

During the review period one new Bias Based investigation was assigned and three case investigations were completed. After a thorough review of each completed investigation this office reached the same finding as IA.

DISCOURTEOUS TREATMENT OR CONDUCT UNBECOMING OF A POLICE OFFICER					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
19-0063	5/17/2019	8/3/2021	SUS x 3	NR	DEPT ALLEGED O's DID NOT HANDLE DV CALL CORRECTLY
20-0080	8/12/2020	9/1/2021	SUS UNF x 2	NR UNF x 2	DEPT ALLEGED O1 DISPLAYED UNPROFESSIONAL CONDUCT DEPT ALLEGED O2 & O3 FAILED TO REPORT CONDUCT
20-0097	10/12/2020	P			Os ALLEGED SGT HAS BEEN UNPROFESSIONAL
20-0100	10/19/2020	9/10/2021	SUS SUS SUS	NR	DEPT ALLEGED O INVOLVED IN OFF-DUTY DISTURBANCE CONDUCT UNBECOMING INSUBORDINATION
20-0106	11/3/2020	9/3/2021	SUS UNF EX	SUS UNF EX	CP ALLEGED EMP ACCESSED DATA SYSTEM FOR PERS USE & DEPT ALLEGED EMP LACKED DISCRETION CP ALLEGED O WAS PERSONALLY INVOLVED IN MATTER
20-0108	11/5/2020	7/9/2021	SUS	NR	DEPT ALLEGED O DISPLAYED CONDUCT UNBECOMING ON AND OFF-DUTY
20-0109	11/5/2020	9/10/2021	SUS x 2 EX	NR EX	DEPT ALLEGED Os FAILED TO USE PROPER DISCRETION DEPT ALLEGED O USED UNREASONABLE FORCE
20-0113	12/9/2020	P			DEPT ALLEGED O WAS ARRESTED FOR POSSESSION OF CHILD PORNOGRAPHY
21-0012	2/19/2021	P			CP ALLEGED O ASKED INAPPROPRIATE QUESTIONS
21-0017	3/15/2021	9/10/2021	SUS SUS SUS SUS SUS UNF	NR NR NR NR NR UNF	DEPT ALLEGED: O VIOLATED A CRIMINAL STATUTE ENGAGED IN UNBECOMING CONDUCT CRIMINAL, DISHONEST, OR DISGRACEFUL CONDUCT LACKED DISCRETION VIOLATED TATTOO POLICY UNLAWFUL EXERCISE OF AUTHORITY
21-0018	3/18/2021	P			DEPT ALLEGED O DID NOT PROPERLY HANDLE DV CALLS

DISCOURTEOUS TREATMENT OR CONDUCT UNBECOMING OF A POLICE OFFICER					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
21-0021	3/23/2021	8/17/2021	SUS EX	NR EX	CP ALLEGED MONEY AND MARIJUANA WERE MISSING AFTER HE WAS ARRESTED DEPT ALLEGED BWC ACTIVATION ISSUE
21-0025	4/14/2021	9/22/2021	UNF SUS	UNF NR	DEPT ALLEGED SUP DISCRIMINATED AGAINST AN ESD DEPT ALLEGED SUP MISUSED DISCRETION
21-0028	4/26/2021	7/16/2021	SUS	NR	DEPT ALLEGED O IMPROPERLY SHARED PENDING ARREST INFORMATION WITH ANOTHER AGENCY
21-0030	4/26/2021	P			CP ALLEGED O DID NOT DOCUMENT DELIVERY OF CASH
21-0031	4/26/2021	8/13/2021	EX UNF SUS	EX UNF NR	CP ALLEGED O1 CONDUCTED AN IMPROPER SEARCH & O1 & O2 WERE DISCOURTEOUS DEPT ALLEGED O2 FAILED TO NOTIFY SUPV OF COMPLAINT
21-0037	5/17/2021	7/28/2021	UNF	UNF*	CP ALLEGED Os REMOVED WALLET WITH CURRENCY DURING A SEARCH WARRANT SERVICE
21-0042	5/24/2021	P			DEPT ALLEGED FPD EMP CHALLENGED CITY EMP IN A SOCIAL MEDIA POST
21-0046	5/28/2021	P			CP ALLEGED O USED POOR DISCRETION
21-0056	7/12/2021	P			CP ALLEGED O POSTED INAPPROPRIATE COMMENTS ON SOCIAL MEDIA
21-0057	7/12/2021	P			DEPT ALLEGED O PURSUED VEH AT HIGH SPEEDS
21-0059	7/23/2021	P			DEPT ALLEGED O WAS INVOLVED IN SEXUAL HARASSMENT OF OTHER Os
21-0061	8/3/2021	P			DEPT ALLEGED O WAS INVOLVED IN AN OFF-DUTY DV MATTER WITH HIS WIFE
21-0062	8/3/2021	P			DEPT ALLEGED Os WERE INVOLVED IN A DISTURBANCE AT A LOCAL PUB
21-0063	8/5/2021	P			CP ALLEGED O WAS UNPROFESSIONAL AT TRAFFIC STOP
21-0064	8/12/2021	P			CP ALLEGED ITEMS WERE MISSING FROM VEHICLE AFTER IT WAS TOWED

DISCOURTEOUS TREATMENT OR CONDUCT UNBECOMING OF A POLICE OFFICER					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
21-0068	8/20/2021	P			CP ALLEGED O USED FPD COMPUTER TO OBTAIN CP'S BACKGROUND INFORMATION
21-0076	9/21/2021	P			DEPT ALLEGES ESD WAS DISCOURTEOUS TO ANOTHER ESD

During the review period 12 investigations within the above category were completed and nine new investigations were initiated. Although this office reached the same finding as IA in each of the completed investigations, two cases warrant referencing. IA2021-0021 and IA2021-0037 were CP initiated cases in which allegations were made officers either lost, misplaced, or took property or money belonging to the CP.

IA2021-0021: The investigation determined when the officer removed currency from the CP, following the CP's arrest, the currency was placed on the hood of the patrol car. Within a folded large denomination bill was a small amount of marijuana which was blown away when the bill was unfolded. The allegation was sustained due to the loss of the marijuana since the CP was not charged with the possession of the minor amount of marijuana. However, it was determined the officer booked the CP with same amount of currency found on his person when arrested. Therefore, the officer was found not to be in violation of policy regarding the alleged missing currency.

An additional allegation was considered when the investigation was initiated regarding the activation of the officer's BWC. The officer had activated his BWC when contacting the CP, but the recording was stopped once the CP was secured following his arrest. In reviewing the policy, the requirement to activate a BWC includes when there is a belief an office may effect an arrest or detention but does not include when documenting an arrestee's property. FPD Policy 450.4, reads in part:

450.4 GUIDELINES FOR CAMERA ACTIVATION

Officers shall record interactions including, but not limited to, the following:

- (a) Arrests and detentions, or situations where an officer reasonably believes they will effect an arrest or detention (to include traffic stops and consensual encounters made with the intent to develop reasonable suspicion to detain);
- (b) Officers assisting in an arrest or detention situation;
- (c) Confrontational interactions with citizens;
- (d) Vehicle and foot pursuits;
- (e) Forced entries, search warrants and warrantless searches (including vehicles);
 - 1) When entry is made with or without a warrant, all officers should activate their cameras prior to making entry and continue recording until the scene has been secured. Once the location is secure, and no other circumstances warrant recording, officers may deactivate their cameras.
- (f) Suspect interrogations (including Miranda advisement) and generally, interviews of victims and witnesses.
- (g) Eyewitness identification(s) to comply with Policy §607 and PC §859.7.
- (h) When loading, unloading, or transporting subjects in the transportation wagons/vans.

It is recognized the continuance of the BWC recording would have been beneficial in quickly disproving the CP's allegation, however the policy as it is presently written does not require the documentation of arrestee's property be recorded. The policy allows for a certain amount of discretion in these situations resulting in a finding of **exonerated**.

IA2021-0037: As part of an ongoing homicide investigation a multi-agency search warrant was served which included personnel from the FPD. The following day a resident from the search location advised a wallet containing a significant amount of United States and foreign currency was missing. Based on the seriousness of the allegation an IA investigation was initiated. While the investigation was being conducted the resident contacted the FPD to advise the wallet had been located and felt it was their "obligation to call and ask for forgiveness." The contact with the resident was recorded and reviewed by this office for accuracy resulting in a finding of **unfounded**.

Observation #1: Although the two previous listed investigations and reviews determined the officers were within policy, the initiation of an IA investigation may cause some community members to question their trust in the FPD. When officers are accused of theft the nature of the allegations are somewhat alarming and difficult for many to disregard even when the officer is proven to be within policy. The resident in IA2021-0037 should be commended for their honesty and willingness to admit an error. However, if these types of allegations can be quickly disputed when the CP initially contacts the FPD it would be beneficial to all involved. The FPD and officer's integrity would not be questioned, and most importantly the community's trust of the FPD would be quickly restored or strengthened. Additionally, valuable investigative resources would not be diverted to investigate these unsubstantiated claims.

Recommendation #1: The listed cases are not the first time these types of allegations have been made. Presently the BWC Policy 450 does not require BWC activation during arrestee's property inventory, or during the service of a search warrant. It is recommended consideration be given to amend the policy to address these areas. It is understood, and supported, an officer's safety is paramount when facilitating an arrest. Therefore, securing the arrestee in the patrol vehicle is a priority and having an arrestee remain outside of a patrol vehicle to witness the recording property inventory creates safety issues. The inventory can be documented with the prisoner secured in the vehicle and the officer conducting the inventory at their discretion, either while seated in the front seat or the exterior of the vehicle. Efforts should be made to memorialize the property inventory utilizing at a minimum the BWC audio in the presence of the arrestee. In respects to the service of search warrants, there are times the identities of the officers involved are to remain confidential due to the sensitive nature of their assignments. This should be taken into consideration if the BWC policy is amended in response to this recommendation.

ADMINISTRATIVE OR PERFORMANCE MATTERS					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
20-0086	8/26/2020	8/19/2021	SUS x 2	NR	DEPT ALLEGED Os FAILED TO DETECT FIREARM ON A PRISONER
21-0003	1/20/2021	8/13/2021	SUSP	NR	DEPT ALLEGED O MISPLACED MAGAZINE AFTER TEST FIRING A WEAPON IN EVIDENCE
21-0026	4/14/2021	7/9/2021	SUS	NR	DEPT ALLEGED Os FAILED TO WRITE A TRAFFIC COLLISION REPORT
21-0033	4/27/2021	P			DEPT ALLEGED EMP REPEATEDLY USING PERS CELL AT WORK
21-0035	4/29/2021	9/1/2021	SUS SUS	NR	DEPT ALLEGED O WAS PERSONALLY INVOLVED AND DID NOT DOCUMENT PROPERTY RETURN
21-0040	5/19/2021	P			DEPT ALLEGED O DAMAGED FPD VEHICLE WHEN TESTING TASER
21-0077	9/24/2021	P			DEPT ALLEGES Os FAILED TO TERMINATE A PURSUIT

During the review period four investigations were completed with allegations in three of the cases being sustained. The fourth investigation was suspended due to the employee no longer being with the FPD. One new investigation was initiated during the review period.

As mentioned in the second quarter report, the IA Vehicle Accidents table will no longer be included in the quarterly reports. A review of the 29 completed vehicle accident investigations completed by IA in 2020, found 27 were sustained, one was suspended, and only one was determined to be unfounded. The percentages of findings were similar for prior years. Therefore, it was determined based on the percentage of sustained findings, and the established OIR policy of not reviewing sustained findings, listing the individual vehicle accident cases provides minimal value to the reader or community. However, the quarterly reports will include a summary of the number of vehicle accident cases assigned, completed, and their respective findings during the quarter. This office will continue to review all completed investigations where the findings are unfounded, exonerated, or not sustained. A summary of the reviews will be included in all future quarterly reports.

During the third quarter ten vehicle accident cases were completed. Each investigation resulted in a finding of sustained. During the same period eight new vehicle accident investigations were initiated and assigned.

COMMUNITY GENERATED INFORMAL COMPLAINT

INFORMAL COMPLAINT	DATE CLOSED	FPD FINDINGS	OIR FINDINGS	ALLEGATION(S)	DISTRICT
IC21-0049	7/21/21	SUS	NR	DISCOURTEOUS TREATMENT	SE
		EX	EX	SEARCH/SEIZURE ISSUES	
		UNF	UNF	RACIAL/BIAS BASED PROFILING	
IC21-0050	7/21/21	UNF	UNF	GENERAL RESPONSIBILITIES	CENTRAL
				ARREST AUTHORITY/PROCEDURES	
				UNREASONABLE FORCE	
IC21-0051	7/21/21	UNF	UNF	DISCOURTEOUS TREATMENT	NE
				INTEGRITY	
IC21-0052	7/21/21	UNF	UNF	CONSCIENTIOUSNESS	SE
IC21-0053	7/21/21	UNF	UNF	ENTRY PROCEDURES	SW
IC21-0054	7/21/21	UNF	UNF	DISCOURTEOUS TREATMENT	CENTRAL
IC21-0055	7/21/21	UNF	UNF	INVESTIGATION HANDLING	NE
IC21-0056	8/10/21	UNF	UNF	GENERAL CALL HANDLING	SE
IC21-0057	8/10/21	UNF	UNF	INVESTIGATION HANDLING	NON-DISTRICT
IC21-0058	8/10/21	UNF	UNF	GENERAL CALL HANDLING	CENTRAL
IC21-0059	8/10/21	UNF	UNF	RACIAL/BIAS BASED PROFILING	NON-DISTRICT
IC21-0060	9/15/21	UNF	UNF	GENERAL RESPONSIBILITIES	CENTRAL
IC21-0061	9/15/21	UNF	UNF	DISCOURTEOUS TREATMENT	SE
IC21-0062	9/15/21	UNF	UNF	GENERAL CALL HANDLING	NW

COMMUNITY GENERATED INFORMAL COMPLAINT					
INFORMAL COMPLAINT	DATE CLOSED	FPD FINDINGS	OIR FINDINGS	ALLEGATION(S)	DISTRICT
IC21-0063	9/15/21	UNF	UNF	GENERAL CALL HANDLING	NW
IC21-0064	9/15/21	UNF	UNF	GENERAL CALL HANDLING	SE
IC21-0065	9/15/21	UNF	UNF	GENERAL CALL HANDLING	SE
IC21-0066	9/15/21	UNF	UNF	GENERAL CALL HANDLING	SE
IC21-0067	9/15/21	UNF	UNF	GENERAL CALL HANDLING	NW
IC21-0068	9/15/21	UNF	UNF	GENERAL RESPONSIBILITIES	SW
IC21-0069	9/15/21	UNF	UNF	GENERAL RESPONSIBILITIES	SW
IC21-0070	9/15/21	UNF	UNF	DISCOURTEOUS TREATMENT	CENTRAL
IC21-0071	9/15/21	UNF	UNF	GENERAL RESPONSIBILITIES	SW
IC21-0072	9/15/21	UNF	UNF	GENERAL RESPONSIBILITIES	CENTRAL

As of January 1, 2021, the informal complaints will be listed by who was responsible for the complaint being initiated, by the community (CP) or the department (DEPT). This will allow the FPD to provide a more accurate method for tracking the informal complaints. During the third quarter, 24 community generated complaint investigations were completed. The completed investigations were reviewed by this office, and it was determined the FPD arrived at the appropriate findings.

IA INVESTIGATION RESULTS

Below are the totals for the allegation findings following the completed investigations and the levels of discipline issued, or options chosen by the officers/employees, who were determined to be in violation of a FPD policy. The findings table represents the results of 24 IA case investigations completed during the review period. As indicated in the respective charts on the preceding pages, a single investigation may include more than one possible FPD Policy violation and multiple officers.

FINDINGS FOR FORMAL IA INVESTIGATIONS (Based on Closed Date)	TOTAL OF FINDINGS FOR IA CASES CLOSED IN 2 nd QUARTER 2021			
	DEPT	CP	OIS	TOTALS
SUSTAINED	21	3	2	24
NOT SUSTAINED	0	0	0	0
UNFOUNDED	0	3	0	3
EXONERATED	0	2	0	2
WITHIN POLICY* *OIS-Person/OIS Dog/Firearm Discharge/Lethal Force	N/A	N/A	1	1
WITHDRAWN/CASE SUSPENDED	1	0	0	1
TOTAL FINDINGS	22	8	1	31

DISCIPLINE ISSUED	2015	2016	2017	2018	2019	2020	3rd QTR 2021
TERMINATIONS	5	7	3	2	8	5	1
RESIGNED IN LIEU OF	0	0	1	0	5	8	0
RETIRED	0	0	0	0	3	3	0
DEMOTION	0	0	0	0	1	0	0
SUSPENDED	13	16	17	32	29	52	8
PAYMENT IN LIEU OF	0	0	0	0	3	1	0
FINES	1	0	0	0	0	0	0
MEDICAL SEPARATION	NA	NA	NA	NA	3	0	0
LETTERS OF REPRIMAND	11	9	10	15	19	15	8
TOTAL	30	32	31	49	71	84	17

STATEWIDE DEVELOPMENTS REGARDING OIS

Effective July 1, 2021, California Attorney General (AG) Rob Bonta implemented [California Assembly Bill 1506 \(AB 1506\)](#). Per AG Bonta, “One of the most important tasks ahead for public safety and our society is building and maintaining trust between our communities and law enforcement. Impartial, fair investigations and independent reviews of officer-involved shootings are one essential component for achieving that trust. California is strengthening our state’s mechanisms for accountability and transparency in investigations of officer-involved shootings. These cases are never going to be easy, but the California Department of Justice (CADOJ) will follow the facts and seek to ensure every Californian is afforded equal justice under the law.”

A significant component of AB 1506 is the formal establishment of the California Police Shooting Investigation Teams (CaPSIT) to handle qualifying incidents. Under AB 1506 the CADOJ will be required by law to investigate all incidents where an OIS results in the death of unarmed civilian. In the past such incidents were primarily handled by local law enforcements with prosecutive decisions rendered by the local district attorneys. Under the new law CADOJ will investigate and review all qualifying incidents for potential criminal liability, as enacted in [California Government Code section 12525.3](#). The decisions will be released to the public, either through a written report explaining the decision not to seek criminal prosecution or by the filing of criminal charges. The details of the new law and review process can be found in the following documents released to the public by AG Bonta:

1. [Assembly Bill \(AB\) 1506 Definitions and Law Enforcement Agency’s Notification Responsibility](#)
2. [Criminal Law Division’s AB 1506 protocols](#)
3. [Full Investigation Procedural Guidelines for CaPSIT](#)
4. [Protocols for Outreach and Services for Impacted Family Members](#)
5. [CA DOJ Communications Policy for Incidents that Qualify Under AB 1506](#)

The CaPSIT will be made up of personnel that are geographically located across California in alignment with historical patterns in OIS in the state, with a team in Southern California and one in Northern California. When an OIS occurs which may qualify under guidelines of AB 1506 a CaPSIT will be deployed to the scene once notified by the local law enforcement agency. Details regarding the process can be found in the above publications (hyperlinks are embedded). The publications listed above as one, two, and three also define a deadly weapon under AB 1506.

The implementation of AB 1506 and the creation of the CaPSIT will not take the place of the investigations conducted by the FPD, or the review conducted by this office. The separate department investigation and OIR review will continue for all future OIS incidents.

Since the new law became effective CADOJ has initiated OIS investigations involving the following departments: Anaheim Police Department, California Highway Patrol, Guadalupe Police Department, Tustin Police Department, Bakersfield Police Department, and Los Angeles Police Department.

GOVERNOR NEWSOM SIGNS POLICING REFORM LEGISLATION

On September 30, 2021, California Governor Newsom signed eight bills addressing police reform. Of the eight bills signed the two which are regarded as having the biggest impact on law enforcement are [SB 2](#) and [SB 16](#). The full bill text can be found in the embedded hyperlinks; however, they are summarized as follows:

SB 2 creates a system to investigate and revoke or suspend peace officer certification for serious misconduct

SB 16 increases transparency over peace officer misconduct records

Below is a full list of the police reform bills signed by the Governor:

- AB 26 – Peace officers: use of force.
- AB 48 – Law enforcement: use of force.
- AB 89 – Peace officers: minimum qualifications.
- AB 481 – Law enforcement and state agencies: military equipment: funding, acquisition, and use.
- AB 490 – Law enforcement agency policies: arrests: positional asphyxia.
- AB 958 – Peace officers: law enforcement gangs.
- SB 2 – Peace officers: certification: civil rights.
- SB 16 – Peace officers: release of records.

The press release from the Governor's office can be found [here](#).

OIR PARTICIPATION IN NATIONAL OVERSIGHT CONFERENCE

During the third quarter I took part in the 27th Annual National Association for Civilian Oversight of Law Enforcement (NACOLE) Virtual Conference. The virtual component consisted of more than 30 webinars that were presented live with experts in the field of civilian oversight. NACOLE, which I have been a member of since 2017, was established in 1995. NACOLE is a non-profit organization that brings together individuals and agencies working to establish or improve oversight of law enforcement in the United States. NACOLE is dedicated to promoting greater police accountability through the establishment or improvement of citizen oversight agencies by:

- organizing an annual training conference to increase the knowledge and skills of staff members and volunteers who work in oversight.
- act as a resource to jurisdictions considering the creation or revitalization of oversight bodies.
- identifying best practices as they emerge from the experiences of members.

- encouraging networking, communication, and information-sharing to counter the isolation inherent in the profession.
- furnishing information to government officials and community representatives that will support their advocacy of oversight in their states, counties, cities, and towns.

By participating in the annual conference, I learned about current trends and best practices in law enforcement oversight, not only in California but throughout the country and internationally. I was also afforded the opportunity to present questions during the following:

- Civilian Oversight as a Permanent Part of Public Safety
- Moment or Movement: The Case for Diversity, Equity, and Inclusion in Law Enforcement
- Recent Legislative Wins and Losses on Officer Decertification
- The Duty to Intervene After "I Can't Breathe"
- Infiltration of White Supremacy in Law Enforcement
- There's a New Sheriff in Town: Civilian Oversight
- Clippers and Cops (Atlanta officers mending the gap between community and police)
- Effective Oversight Through Innovations in Technology
- Six Durations of a Split Second: The Killing of Harith Augustus
- Maintaining Enthusiasm for Oversight in the Face of Resistance & Setbacks
- Oversight Commissions and Boards: How Member Selection Criteria & Processes Can Impact Effectiveness
- Oversight of Chicago's Police Disciplinary System
- Proactive Compliance: Ensuring Police Directives Are Aligned with Legal Standards & Best Practices
- The Oversight of Jamaica's Correctional Service and Police Detention Facilities by INDECOM
- The Independent Critical Incident Investigation Agency: A New Form of Oversight for the U.S.
- Mental Health Assistants: Compassion, Opportunities, and Partnerships
- Lethal Force: Women and Children as Collateral Damage
- Challenges of Arbitration Within Oversight & Accountability
- Legal Updates
- From Data Analysis to Policy Recommendation
- Civilian Oversight and the LGBTQ Community (Oct)
- Money, Money, Money: Where Does All the Police Funding Go? (Oct)
- Towards Racial Equity (Oct)
- Civilian Oversight and Its Role in Reform (Oct)

I also participated in a virtual workshop involving many of the California law enforcement oversight offices. It was the first time a workshop was held for solely for the California oversight offices. The ongoing collaboration between offices will provide an additional platform to address issues that are specific to California.

SUMMARY

A collateral function of this office is to engage in community outreach. However, due to the ongoing COVID-19 pandemic, in-person group meetings and community events have been postponed. In an event to continue our outreach efforts we have begun offering to provide presentations via any of the virtual meeting platforms available, such as ZOOM, WebEX Meeting, and Microsoft Teams, to name a few. We have also recently created an [OIR Facebook](#), [Instagram](#), and [Twitter](#) page for the public to contact us or view our quarterly reports as they are released. In the event your group or organization begins to resume normal in person meetings, gatherings, or events, we encourage you to contact us for a presentation or information booth set up at your event.

There are several ways to contact this office and it is our policy to return all correspondence within a 24-hour period except for communications received over the weekend. Our contact information is listed below.

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

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