



OFFICE OF INDEPENDENT REVIEW

**REPORT FOR THE PERIOD OF
APRIL 1, 2022, TO JUNE 30, 2022**

**John A. Gliatta
Independent Reviewer**

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 speak to your group or participate at your next community event. Contact information can be found on the last page of this report.

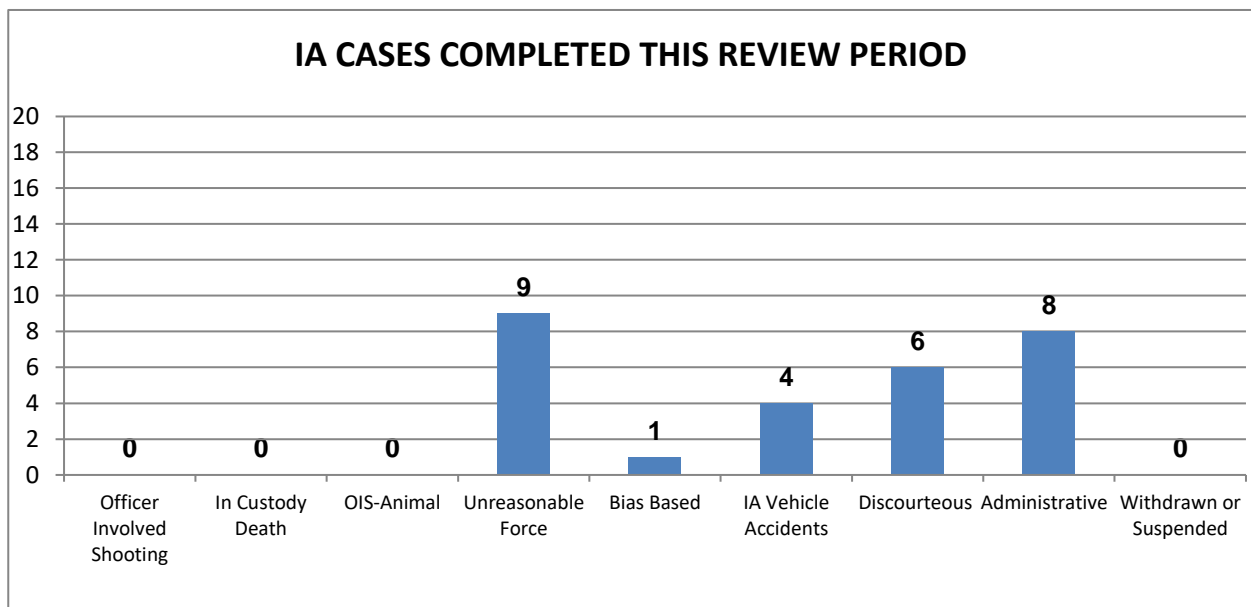
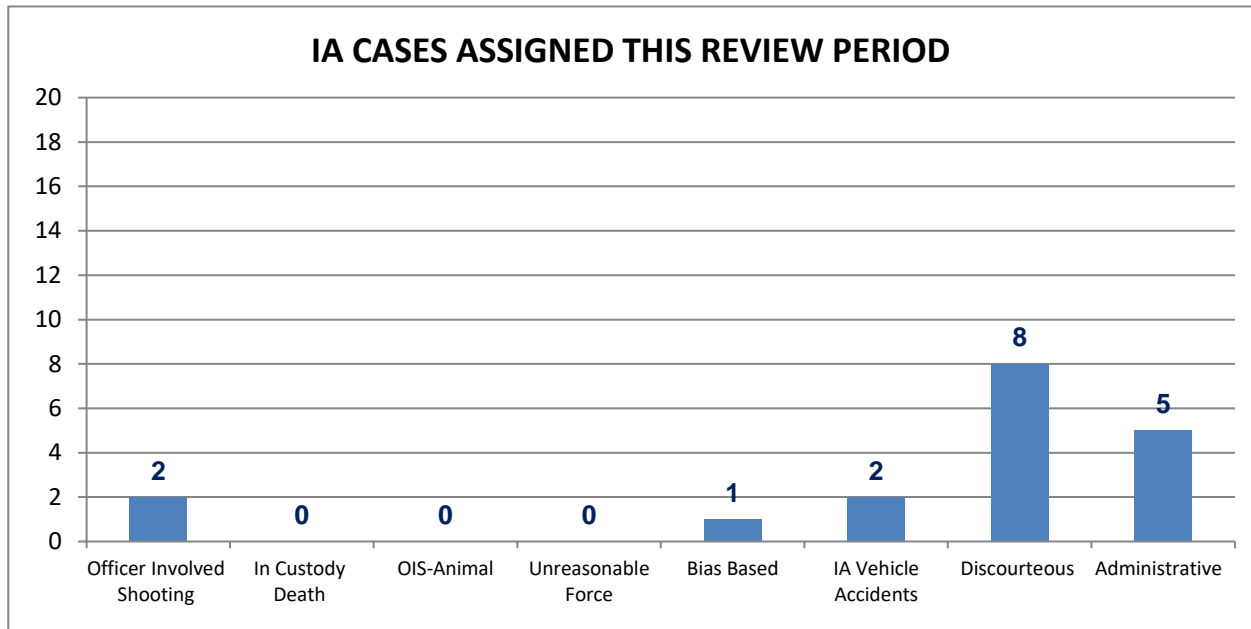
OIR REPORT FORMAT

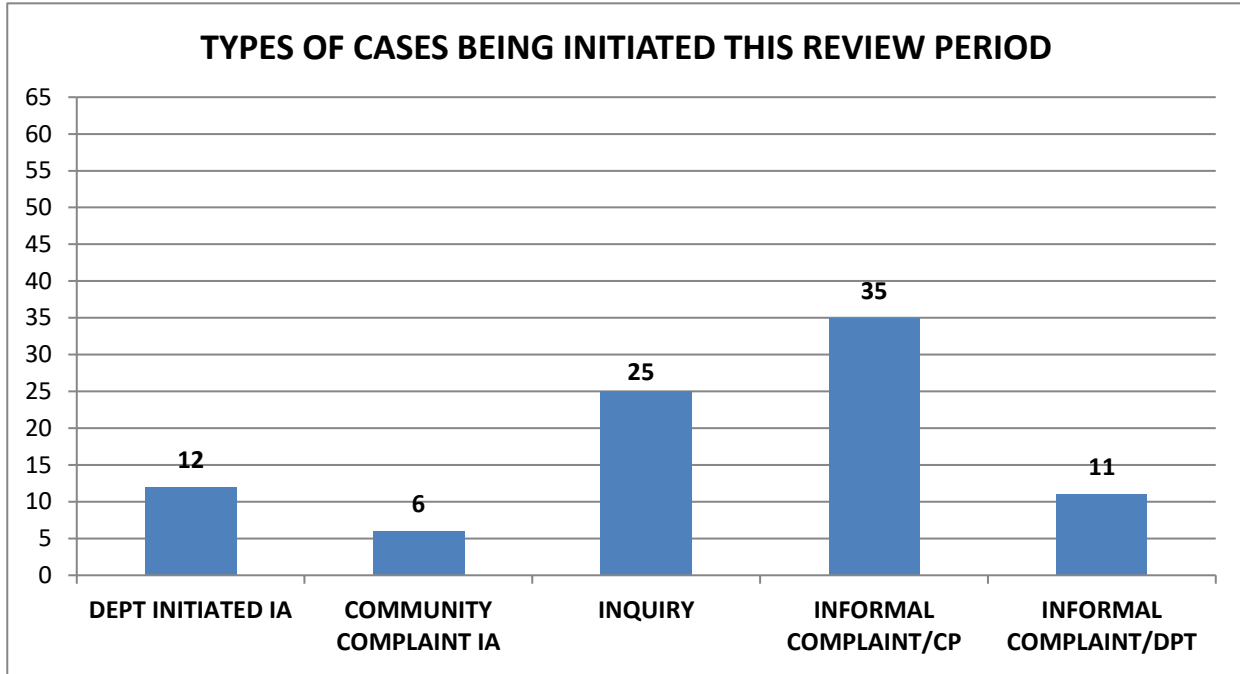
The OIR adheres to the following guidelines, format, and definitions in all quarterly reports:

- 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 employee(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 employee(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/evidence 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, City Manager Georgeanne White, 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 before the summary.
- All FPD responses to OIR recommendations, to include if the FPD implemented a 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. *However, beginning no later than January 1, 2023, each law enforcement agency shall be responsible for the completion of investigations of allegations of serious misconduct by a peace officer, regardless of their employment status, per [Senate Bill 2](#), Section 13510.8.(9)(c)(1).*
- 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

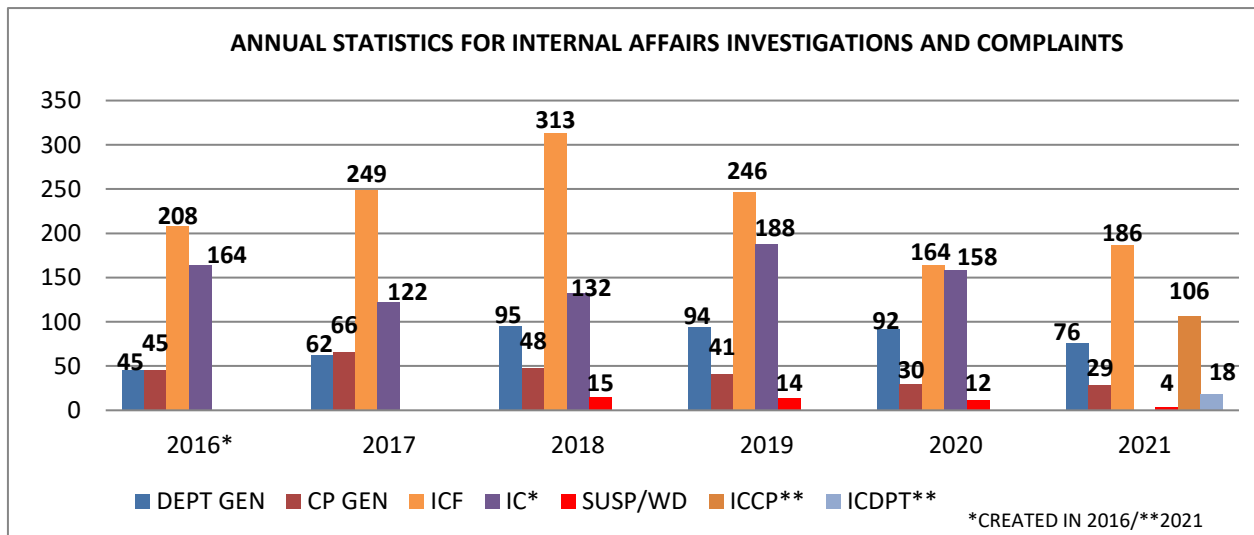
The following charts list the number and types of IA cases assigned and closed during the second quarter of 2022. For classification purposes, Discourteous Treatment also includes cases in which the officer was accused of conduct unbecoming of a police officer. The classification of Administrative Matters 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 (DPT).



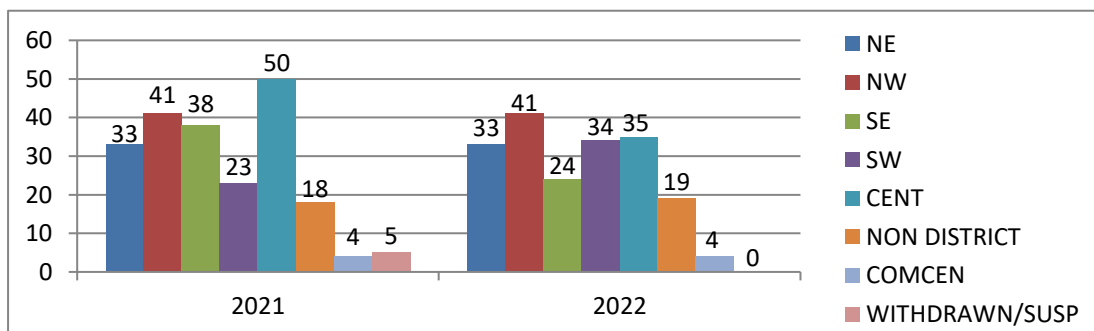
COMPLAINTS OR INQUIRIES ASSIGNED BY POLICING DISTRICT

The following charts reflect the complaints or inquiries assigned in each of the five policing districts for the second quarter of 2022, and a second quarter comparison between 2021 and 2022. 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 (DPT).

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

MATTERS ASSIGNED BY POLICING DISTRICTS FOR THE SECOND QUARTER OF 2022									
ASSIGNED	NE	NW	SE	SW	CENT	NON-DISTRICT	COMCEN	WITHDRAWN/SUSPENDED	TOTAL
IA CASES	2	5	2	3	3	3	0	0	18
INFORMAL COMPLAINTS-CP	7	7	6	6	6	2	1	0	35
INFORMAL COMPLAINTS-DPT	3	2	1	1	3	1	0	0	11
INQUIRIES	4	5	6	4	5	1	0	0	25
2ND QTR TOTALS	16	19	15	14	17	7	1	0	89

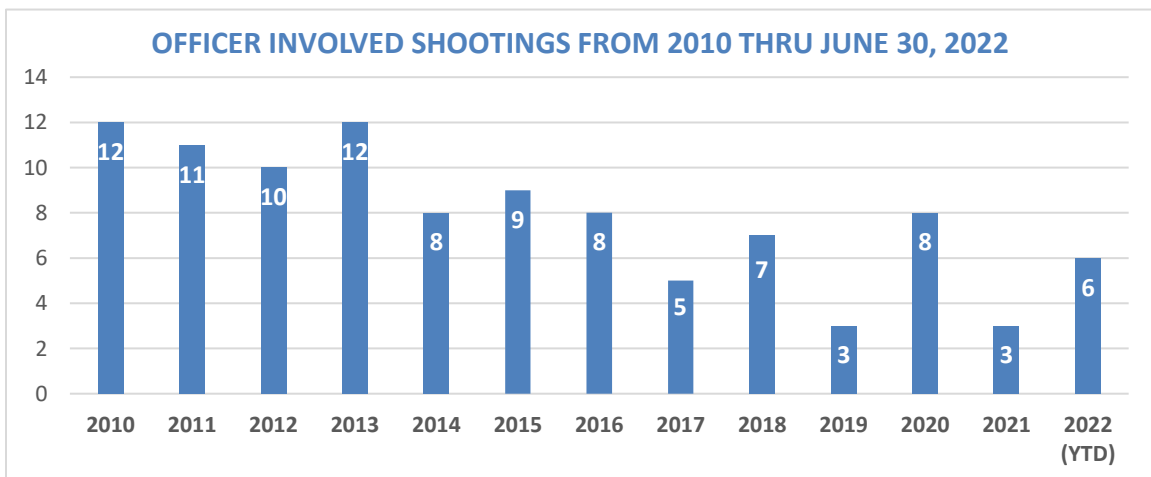
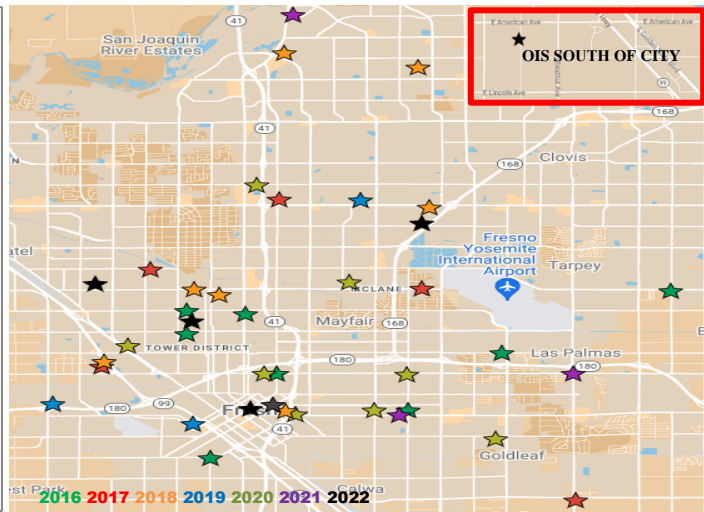
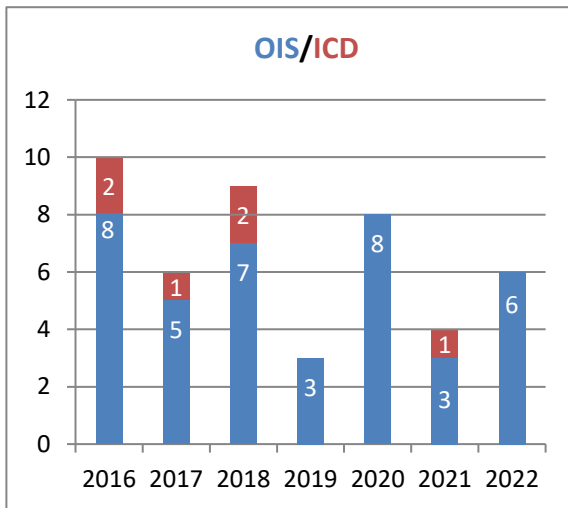
FIRST TWO QUARTER COMPARISONS OF MATTERS BY DISTRICT



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 2022



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
21-0072	9/4/2021	P			SUBJECT APPEARED TO BE UNDER THE INFLUENCE & RESISTED BEING DETAINED. SUBJECT PRONOUNCED DECEASED AT THE HOSPITAL. SUBJECT ALLEGEDLY COMMITTED ATTEMPTED MURDER, CARJACKING, AND KIDNAPPING (ICD).
21-0107	12/22/2021	P			SUBJECT CALLED 9-1-1 AND WHEN Os ARRIVED HE POINTED A REPLICA WEAPON AT THEM, NON-FATAL
22-0001	1/2/2021	P			SUBJECT RESISTED ARREST THEN STABBED A FCSO K-9. SUBJECT WAS SHOT BY FPD Os, NON-FATAL
22-0006	1/13/2022	P			Os SHOT SUSPECT WHO RAISED A HAMMER AND CHARGED AT Os, FATAL
22-0012	3/6/2022	P			SUBJECT SHOT AT Os WHO RETURNED FIRE, NON-FATAL
22-0020	3/29/2022	P			O SHOT SUBJECT WHILE BEING ASSAULTED IN FPD ANNEX OFFICE, FATAL
22-0033	5/19/2022	P			O SHOT SUSPECT WHO HAD POINTED A REPLICA WEAPON AT RESPONDING Os, FATAL
22-0039	6/18/2022	P			Os SHOT SUSPECT WHO REFUSED TO DROP WEAPON, FATAL

During this review period no case investigations were completed, and two new OIS cases were initiated. The office was able to physically respond to the scene for one of the new OIS cases but was able to monitor officer interviews in real time for both cases. Since there were no completed OIS investigations this period no OIR OIS reviews were conducted this quarter.

STATUS OF INTERNAL AFFAIRS INVESTIGATIONS BY CLASSIFICATION

BIAS BASED					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
22-0022	3/30/2022	5/13/2022	UNF x 2	UNF x 2	CP ALLEGED O's CONTACT WAS BASED ON RACE
22-0036	6/3/2022	P			CP ALLEGED O WAS BIASED AND USED UNREASONABLE FORCE

During the review period one Bias Based investigation was completed with a finding of Unfounded. After a thorough review it was determined the finding was appropriate based on the evidence.

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
21-0032	4/26/2021	4/9/2022	SUS	NR	DEPT ALLEGED O USED UNREASONABLE FORCE ON AN ARRESTEE
21-0052	6/24/2021	4/9/2022	SUS X 2	NR	DEPT ALLEGED O1 USED UNREASONABLE FORCE DEPT ALLEGED SGT FAILED TO TAKE ACTION
21-0053	7/7/2021	4/9/2022	SUS	NR	DEPT ALLEGED O USED UNREASONABLE FORCE AND LACKED DISCRETION
21-0054	7/7/2021	4/9/2022	SUS	NR	DEPT ALLEGED O USED UNREASONABLE FORCE
21-0087	10/15/2021	P			CP ALLEGED Os USED UNREASONABLE FORCE, DEPT ALLEGED Os FAILED TO ACTIVATE BWC & Os FAILED TO DOCUMENT UOF
21-0088	10/15/2021	P			DEPT ALLEGED O USED UNREASONABLE FORCE
21-0090	11/4/2021	6/27/2022	EX SUS	EX NR	CP ALLEGED O USED UNREASONABLE FORCE DEPT ALLEGED O FAILED TO ACTIVATE BWC
21-0091	11/4/2021	6/4/2022	UNF UNF	UNF UNF	CPs ALLEGED O MADE UNLAWFUL ARRESTS CPs ALLEGED Os USED UNREASONABLE FORCE
21-0094	11/16/2021	P			CP ALLEGED O USED UNREASONABLE FORCE DEPT ALLEGED O FAILED TO ACTIVATE BWC DEPT ALLEGED O FAILED TO WRITE REPORT
21-0101	12/9/2021	6/29/2022	UNF UNF	UNF UNF	DEPT ALLEGED Os FAILED TO REPORT APPLICATION OF FORCE DURING ARREST DEPT ALLEGED Os FAILED TO NOTIFY SUP
21-0105	12/13/2021	6/29/2022	EX UNF	EX UNF	CP ALLEGED UNREASONABLE FORCE AND VEHICLE WAS WRONGLY TOWED
22-0005	1/12/2022	4/28/2022	UNF	UNF	CP ALLEGED O USED UNREASONABLE FORCE
22-0018	3/29/2022	P			CP ALLEGED Os USED UNREASONABLE FORCE DURING ARREST

There were nine Unreasonable Force investigations completed during the second quarter. Of the nine completed cases, five resulted in findings of sustained. It should be pointed out one of the sustained findings was for failing to activate a BWC related to a force allegation which was unfounded. Reviews were conducted on each of the allegations where a finding of unfounded was reached. It was determined the appropriate findings were reached by FPD.

DISCOURTEOUS TREATMENT OR CONDUCT UNBECOMING OF A POLICE OFFICER					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
21-0056	7/12/2021	P			CP ALLEGED O POSTED INAPPROPRIATE COMMENTS ON SOCIAL MEDIA
21-0059	7/23/2021	P			DEPT ALLEGED O WAS INVOLVED IN SEXUAL HARASSMENT OF OTHER Os
21-0068	8/20/2021	4/9/2022	SUS	NR	CP ALLEGED O USED FPD COMPUTER TO OBTAIN BACKGROUND INFORMATION ON CP
21-0076	9/21/2021	4/12/2022	SUS	NR	DEPT ALLEGES ESD WAS DISCOURTEOUS TO ANOTHER ESD
21-0084	10/14/2021	P			DEPT ALLEGED OFF-DUTY O WAS ARRESTED FOR DISORDERLY CONDUCT AND RESISTING ARREST
21-0085	10/14/2021	P			CP ALLEGED O MADE INAPPROPRIATE COMMENT DEPT ALLEGED O FAILED TO ACTIVATE BWC AND FAILED TO DOCUMENT THE DETENTION OF A PARENT
21-0097	11/22/2021	P			DEPT ALLEGED O WAS INVOLVED IN ON-DUTY UNBECOMING CONDUCT
21-0098	11/29/2021	6/17/2022	SUS SUS	NR	CP ALLEGED O WAS DISCOURTEOUS TO PUBLIC CP ALLEGED O WAS CONDUCTING PERSONAL BUSINESS
22-0002	1/5/2022	4/13/2022	SUS	NR	DEPT ALLEGED O VIOLATED A MISD OR FELONY STATUTE BY BEING ARRESTED FOR DUI
22-0004	1/12/2022	4/9/2022	SUS x 6	NR	DEPT ALLEGED O WORKED AFTER USING A CONTROLLED SUBSTANCE ALLEGED O FALSIFIED RECORDS ALLEGED O VIOLATED MISD STATUTE O INVOLVED IN PREVENTABLE ACCIDENT O DID NOT POSSESS A BWC O ENGAGED IN CONDUCT UNBECOMING
22-0008	1/25/2022	P			DEPT ALLEGED O CITED FOR OFF-DUTY CONDUCT

DISCOURTEOUS TREATMENT OR CONDUCT UNBECOMING OF A POLICE OFFICER					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
22-0013	3/9/2022	P			DEPT ALLEGES O TICKETED COURT STAFF AFTER O WAS ASKED TO MOVE O's VEH FROM A COURT SPOT
22-0014	3/11/2022	P			DEPT ALLEGED O LACKED DISCRETION WHEN O ADVISED RES OF PENDING SW BEING SERVED
22-0015	3/14/2022	P			DEPT ALLEGED O DID NOT PROPERLY DOCUMENT A CASE AND CONDUCT AN INVESTIGATION
22-0016	3/14/2022	6/4/2022	NS SUS	NS NR	CP ALLEGED O CHALLENGED CP TO A FIGHT DEPT ALLEGED O FAILED TO ACTIVATE BWC
22-0017	3/25/2022	P			DEPT ALLEGED O WAS ARRESTED FOR DUI
22-0024	4/8/2022	P			DEPT ALLEGED EMP WAS DISCOURTEOUS TO SUPERVISOR
22-0025	4/19/2022	P			CP ALLEGED O WAS INAPPROPRIATE DURING POST ARREST SEARCH OF CP'S PERSON
22-0027	5/6/2022	P			DEPT ALLEGED O FAILED TO INVESTIGATE A REPORTED FELONY DOM VIOLENCE INCIDENT
22-0029	5/16/2022	P			CP ALLEGED Os ENTERED HOME ILLEGALLY AND ALSO REMOVED CURRENCY FROM HOME
22-0030	5/16/2022	P			DEPT ALLEGED Os ARRESTED A ROBBERY SUSPECT WHO DISCARDED A FIREARM IN THE AMBULANCE USED TO TRANSPORT THE SUSPECT TO THE HOSPITAL
22-0031	5/16/2022	P			CP ALLEGED Os REMOVED CURRENCY FROM CP'S WALLET AFTER BEING ARRESTED
22-0035	6/3/2022	P			DEPT ALLEGED O IS INVOLVED IN CRIMINAL ACTIVITY BASED ON ANONYMOUS TIP
22-0038	6/9/2022	P			CP ALLEGED Os FAILED TO USE SEAT BELT ON CP DURING TRANSPORT RESULTING IN INJURY

During the review period six investigations within the above complaint category were completed. In each of the cases a finding of sustained was reached by the FPD. However, in one case although the officer was found at fault for not activating a BWC, a finding of not sustained was reached on the second allegation. Therefore, the only review in this category was in regard to the second allegation of the officer challenging the CP to a fight. This office reached the same finding as the FPD, a finding of not sustained.

There were two new vehicle accident cases initiated and two investigations completed during the review period. Each completed investigation resulted in a finding of sustained.

INFORMAL COMPLAINT (CP)				
CASE NUMBER	DATE CLOSED	FINDINGS	ALLEGATION(S)	DISTRICT
22-0035	4/21/22	NOT SUSTAINED	VEHICLE OPERATIONS	NW
22-0036	4/21/22	EXONERATED	ARREST AUTHORITY/PROCEDURES	NE
			UNREASONABLE FORCE	
22-0037	4/21/22	EXONERATED	GENERAL CALL HANDLING	NON-DISTRICT
22-0038	4/21/22	SUSTAINED	VEHICLE OPERATIONS	NW
22-0039	4/21/22	UNFOUNDED	ARREST AUTHORITY/PROCEDURES	NE
			GENERAL RESPONSIBILITIES	
22-0040	4/21/22	UNFOUNDED	GENERAL RESPONSIBILITIES	NW
22-0041	4/21/22	UNFOUNDED	GENERAL CALL HANDLING	NW
22-0042	4/21/22	UNFOUNDED	DISCOURTEOUS	NW
22-0043	4/21/22	UNFOUNDED	PROPERTY -NOT DEPT OWNED- LOST/DAMAGED	CENT
22-0044	4/21/22	UNFOUNDED	DISCOURTEOUS TREATMENT	NW
22-0045	4/21/22	UNFOUNDED	CONDUCT	COM CEN
22-0046	4/21/22	UNFOUNDED	UNREASONABLE FORCE	NE
22-0047	4/21/22	UNFOUNDED	RACIAL BIAS BASED PROFILING	NE
			UNREASONABLE FORCE	
22-0048	4/21/22	UNFOUNDED	DISCOURTEOUS TREATMENT	NE

INFORMAL COMPLAINT (CP)				
CASE NUMBER	DATE CLOSED	FINDINGS	ALLEGATION(S)	DISTRICT
22-0049	4/21/22	UNFOUNDED	DISCOURTEOUS TREATMENT	CENT
22-0050	4/21/22	UNFOUNDED	GENERAL CALL HANDLING	NE
22-0051	4/21/22	UNFOUNDED	REPORT PREPARATION - FALSE/MISLEADING	SW
22-0052	4/21/22	UNFOUNDED	UNREASONABLE FORCE	SE
22-0053	4/21/22	UNFOUNDED	GENERAL RESPONSIBILITIES	NW
22-0054	5/10/22	NOT SUSTAINED	DISCOURTEOUS TREATMENT	NON-DISTRICT
22-0055	5/10/22	UNFOUNDED	DISCOURTEOUS TREATMENT	SW
22-0056	5/10/22	UNFOUNDED	GENERAL RESPONSIBILITIES	CENT
22-0057	6/3/22	UNFOUNDED	SEARCH/SEIZURE ISSUES	SE
22-0058	6/3/22	UNFOUNDED	DISCOURTEOUS TREATMENT	SE
22-0059	6/3/22	EXONERATED	UNREASONABLE FORCE	CENT
22-0060	6/3/22	UNFOUNDED	FAILURE TO OBEY ALL LAWS	SE
22-0061	6/10/22	SUSTAINED	SEARCH/SEIZURE ISSUES	CENT
		EXONERATED	DISCOURTEOUS TREATMENT	
22-0062	6/10/22	UNFOUNDED	DISCOURTEOUS TREATMENT	SW
22-0063	6/10/22	SUSTAINED	INVESTIGATION HANDLING	SE
22-0064	6/10/22	UNFOUNDED	ARREST AUTHORITY/PROCEDURES	SE
			GENERAL RESPONSIBILITIES	
22-0065	6/30/22	SUSTAINED	REPORT PREPARATION	CENT

INFORMAL COMPLAINT (CP)				
CASE NUMBER	DATE CLOSED	FINDINGS	ALLEGATION(S)	DISTRICT
22-0066	6/30/22	SUSTAINED	VEHICLE OPERATIONS	NE
			VEHICLE OPERATIONS	
22-0067	6/30/22	UNFOUNDED	DISCOURTEOUS TREATMENT	SW
22-0068	6/30/22	UNFOUNDED	RACIAL BIAS BASED PROFILING	SW
22-0069	6/30/22	UNFOUNDED	DISCRETION	SW

INFORMAL COMPLAINT (DPT)				
CASE NUMBER	DATE CLOSED	FINDINGS	ALLEGATION(S)	DISTRICT
22-0009	4/21/22	SUSTAINED	DEPT PROPERTY -LOST	CENT
22-0010	4/21/22	UNFOUNDED	CONDUCT UNBECOMING	CENT
22-0011	5/9/22	SUSTAINED	DEPT PROPERTY -LOST	CENT
22-0012	5/9/22	SUSTAINED	DEPT PROPERTY -LOST	NE
22-0013	5/9/22	UNFOUNDED	GENERAL RESPONSIBILITIES	SE
22-0014	5/9/22	UNFOUNDED	DEPT PROPERTY -LOST	NON-DISTRICT
22-0015	6/10/22	SUSTAINED	DEPT PROPERTY -LOST	CENT
22-0016	6/10/22	SUSTAINED	DISCOURTEOUS	NON-DISTRICT
22-0017	6/10/22	SUSTAINED	DEPT PROPERTY -LOST	NE
22-0018	6/10/22	SUSTAINED	DEPT PROPERTY -LOST	NE
22-0019	6/30/22	SUSTAINED	DEPT PROPERTY -LOST	NE

The informal complaints are listed by who initiated the complaint, the community (CP) or the department (DPT). This allows the FPD to provide a more accurate method for tracking the informal complaints. During the second quarter, 35 community generated, and 11 department 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 28 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 THE 2 nd QUARTER 2022			
	DEPT	CP	OIS	TOTALS
SUSTAINED	15	5	0	20
NOT SUSTAINED	0	2	0	2
UNFOUNDED	2	4	0	6
EXONERATED	0	1	0	1
WITHIN POLICY* *OIS-Person/OIS Dog/Firearm Discharge/Lethal Force	N/A	N/A	0	0
WITHDRAWN/CASE SUSPENDED	0	0	0	0
TOTAL FINDINGS	17	12	0	29

ANNUAL DISCIPLINES ISSUED	2016	2017	2018	2019	2020	2021	2022 (YTD)
TERMINATIONS	7	3	2	8	5	5	1
RESIGNED IN LIEU OF	0	1	0	4	8	3	1
RETIRED	0	0	0	4	3	0	2
DEMOTION	0	0	0	1	0	0	0
SUSPENDED	16	17	32	31	52	22	13
PAYMENT IN LIEU OF	0	0	0	4	1	0	0
FINES	0	0	0	0	0	0	0
MEDICAL SEPARATION	NA	NA	NA	3	0	0	0
LETTERS OF REPRIMAND	9	10	15	17	15	25	7
LAST CHANCE AGREEMENT	N/A	N/A	N/A	N/A	N/A	4	1
TOTAL	32	31	49	72	84	59	25

OIR OBSERVATIONS AND RECOMMENDATIONS

Contained within the second and fourth quarter reports in 2018 were recommendations regarding the failure to notify individuals, specifically complainants (CP), their telephone interviews were being recorded. These interviews took place when district level sergeants conducted follow-up interviews in response to the CPs filing a complaint or concern regarding a member of the FPD. The investigations are considered administrative matters, not criminal.

The previous observation and subsequent recommendation read in part as follows:

OBSERVATION: *Although the following FPD policy appears within the Body Worn Camera section of the manual, the reference is being made to California Penal Code §632 regarding recordings:*

450.18 KNOWLEDGE OF RECORDING

PC §632 prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation was private or confidential, however PC §633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation.

Any sworn member may surreptitiously record conversations during the normal course of duty for a criminal investigation in which the sworn member reasonably believes that such a recording will be beneficial to the investigation.

- (a) Any sworn member contacting an individual suspected of violating any law or during the course of any official law enforcement related activity shall be presumed to be engaged in a criminal investigation. This presumption shall not apply to contacts with other sworn members conducted solely for administrative purposes.
- (b) Any individual contacted by a sworn Department member wearing a conspicuously mounted recording device will be deemed to have knowledge that such a contact is being recorded.

Many times the determination of what level the complaint is handled at are not made until after the details of the complaint are obtained by the immediate supervisor and before an IA investigator is assigned. Because of the infrequent tasking, immediate supervisors initiating the calls to the complainants may not have the same level of experience or understanding of the notification requirements when making the contacts. As summarized above, with the exception of criminal investigations, surreptitiously recordings are prohibited in the State of California.

There are also benefits to both the complainant and the FPD when the notifications are made for recorded telephone interviews. The complainant will feel a level of assurance knowing the FPD is taking the matter seriously by documenting the complaint verbatim and not solely in a written summary report after the fact. The FPD also benefits when the complainant is informed of the recording in the event the complainant is tempted to embellish or deviate from the actual details of the incident.

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

In response to the recommendation, on December 12, 2018, the former FPD Chief, Jerry Dyer, issued the below memorandum to all department personnel:



POLICE DEPARTMENT

MEMORANDUM



DATE: December 12, 2018
TO: ALL DEPARTMENT PERSONNEL
FROM: JERRY P. DYER, Chief of Police
Office of the Chief
SUBJECT: RECORDED STATEMENTS

Department personnel responsible for handling administrative matters are sometimes required to interview members of the public. When conducting an interview on an administrative matter such as a receipt of complaint or internal affairs investigation, which requires a statement be tape recorded, Department personnel must first inform the party of their intent to tape record *prior to* tape recording their statement. This applies regardless if the interview is being conducted in person or on the phone.

Unless the Department member is recording as part of a criminal investigation, this notification is required to avoid a potential violation of PC 632, the California Invasion of Privacy Act. All recordings should include introductory information at the beginning of the recording to avoid any future dispute regarding the notification having been given.

JPD/lc

OBSERVATION #1: Following the above referenced memorandum the noted instances were essentially eliminated. However, during the present review period there were at least five instances where a CP was not advised of their interview being recorded. Once again, this was occurring at the district level sergeants and not by the designated IA sergeants.

RECOMMENDATION #1: In view of the positive response to the recommendation in 2018, it appears a periodic reminder would suffice in reaching similar results. The frequency and method of issuing reminders is left to the discretion of the FPD.

SELF INITIATED ACTION BY THE FPD

On June 23, 2022, Chief Balderrama issued a department memorandum reiterating the required review of AXON BWC videos, along with a new system which generates a request for a supervisor to review two randomly generated videos per week. This action is in addition to the mandatory review of BWC for emergency response driving, pursuits, uses of force, administrative functions such as IA investigations, and weekly random reviews.

The memo read in part as follows:

“The purpose of the reviews is for capturing needed data, documenting professional performance, addressing system needs, encouraging communication with supervisors, and enhancing employee training opportunities. Their purpose is not to discipline officers on minor routine issues. Only those actions considered "major allegation" in policy will initiate further investigation. All others will be handled at the district level with minimal discipline and as a tool for the enhancement of performance.”

One of the functions of this office is to identify issues which may require corrective action or at least brought to the attention of the FPD for whatever action is deemed necessary. However, I also feel when the FPD self-initiates action to improve the performance of the department it should also be identified. Although, Chief Balderrama has made numerous changes since his arrival this is one where it highlights the desire to enhance professional performance, which is something that benefits everyone in the Fresno community.

SUMMARY

In the previous quarterly report, it was stated our Community Coordinator, Maira Aguilar, was recently promoted. Within the next few weeks an announcement will be made naming her replacement. Our newly selected Community Coordinator is anxious to participate in community events within the City of Fresno. We encourage you to contact us for a presentation or to set up an information booth 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. Below are several ways you can reach our office. We look forward to hearing from you!

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

Telephone: (559) 621-8617

Email: OIR@fresno.gov

John A. Gliatta
Independent Reviewer
Office of Independent Review