



OFFICE OF INDEPENDENT REVIEW

**REPORT FOR THE PERIOD OF
JULY 1, 2022, TO SEPTEMBER 30, 2022**

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

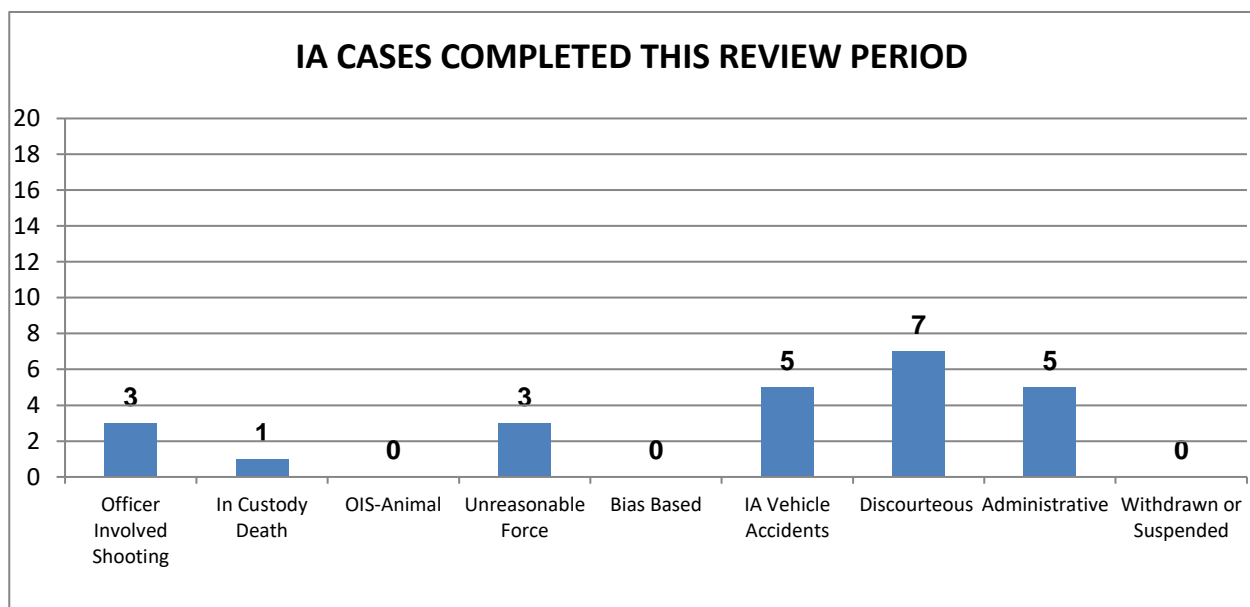
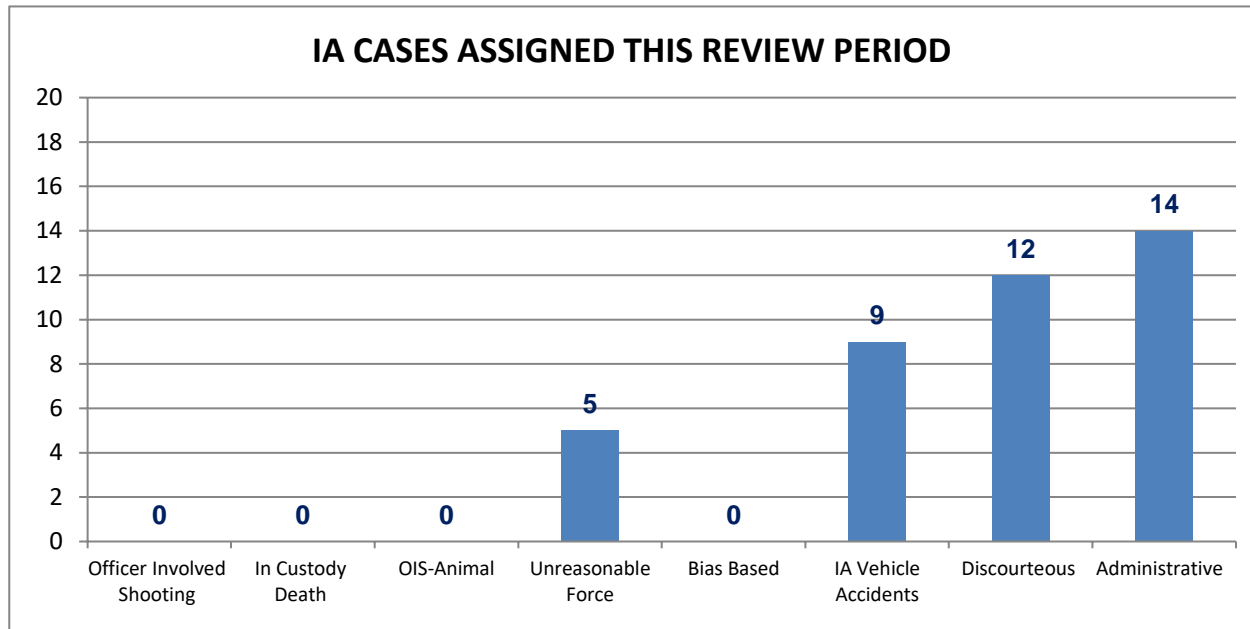
OIR REPORT FORMAT

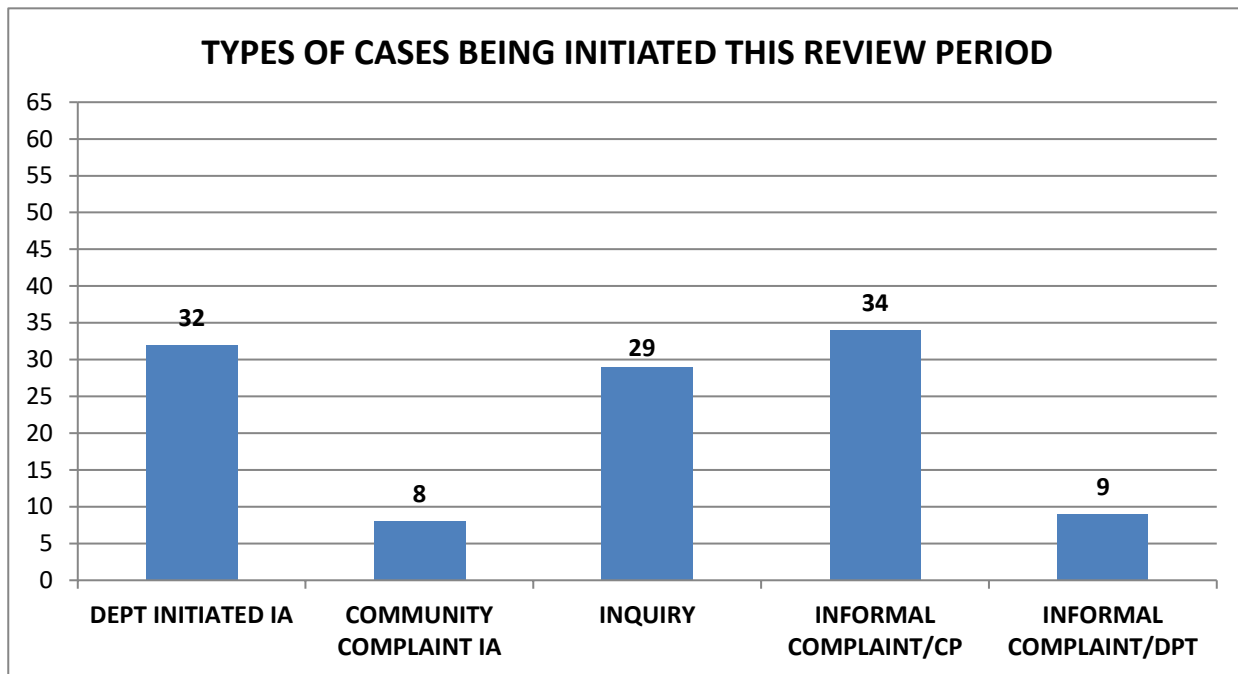
The OIR adheres to the following guidelines, format, and definitions in all quarterly reports:

- 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

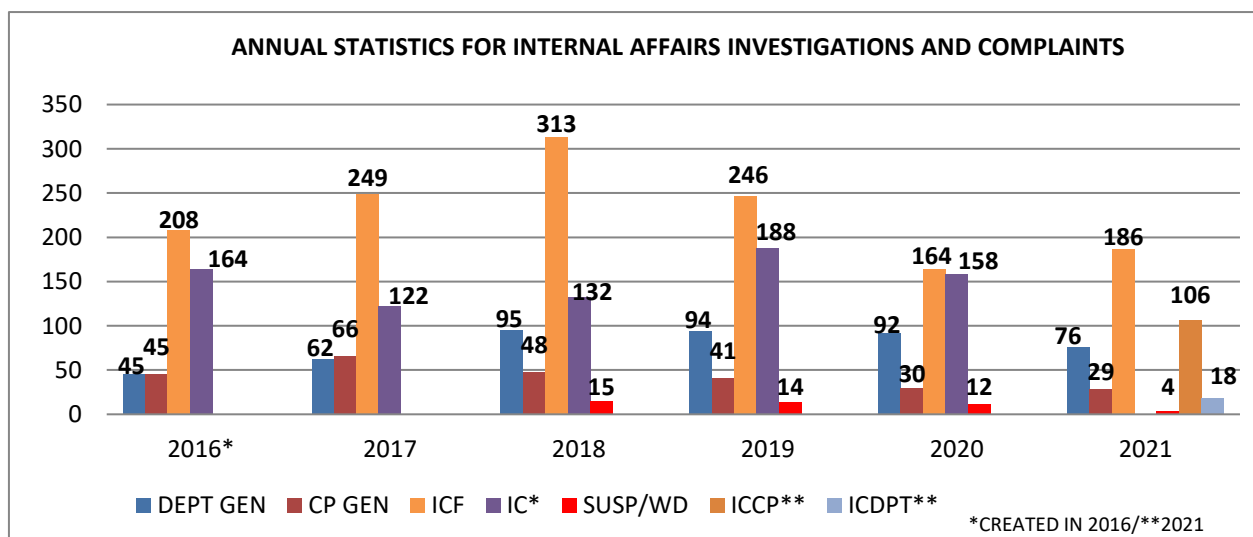
The following charts list the number and types of IA cases assigned and closed during the third quarter of 2022. For classification purposes, Discourteous Treatment also includes cases in which the officer was accused of conduct unbecoming of a police officer. The classification of Administrative Matters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



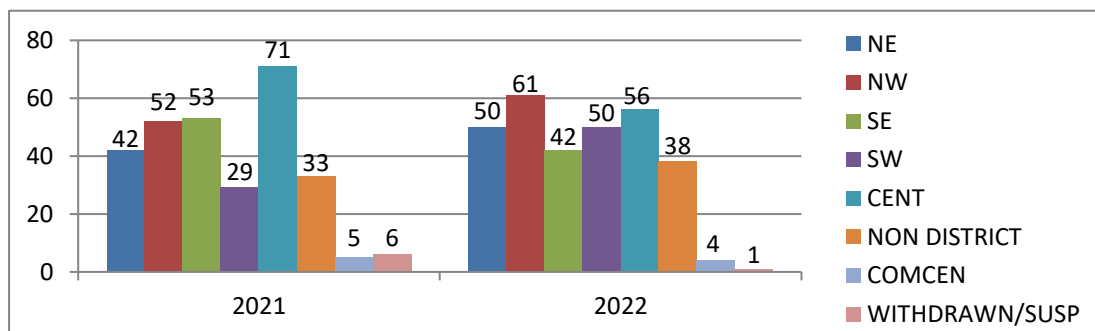
COMPLAINTS OR INQUIRIES ASSIGNED BY POLICING DISTRICT

The following charts reflect the complaints or inquiries assigned in each of the five policing districts for the third quarter of 2022, and a third quarter comparison between 2021 and 2022. The 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 THIRD QUARTER OF 2022									
ASSIGNED	NE	NW	SE	SW	CENT	NON-DISTRICT	COMCEN	WITHDRAWN/SUSPENDED	TOTAL
IA CASES	4	8	3	8	9	8	0	0	40
INFORMAL COMPLAINTS-CP	6	9	9	2	4	4	0	0	34
INFORMAL COMPLAINTS-DPT	1	0	1	1	1	4	0	1	9
INQUIRIES	6	3	5	5	7	3	0	0	29
2ND QTR TOTALS	17	20	18	16	21	19	0	1	112

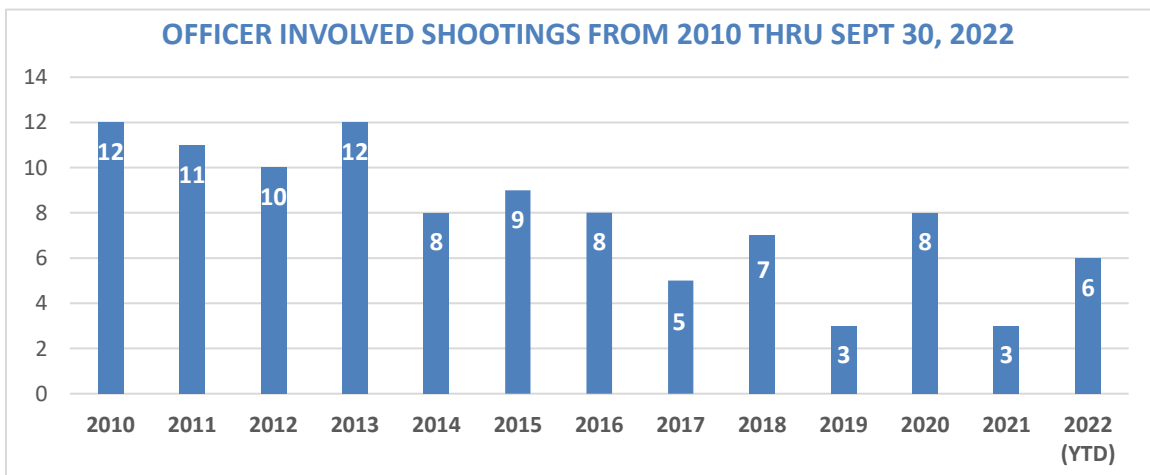
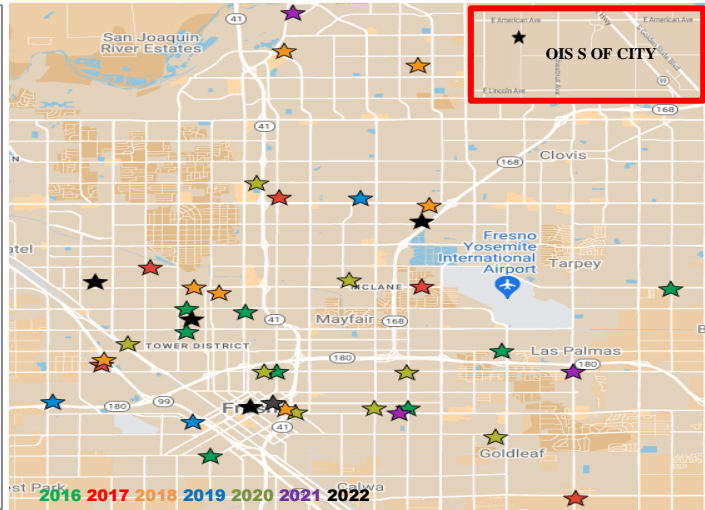
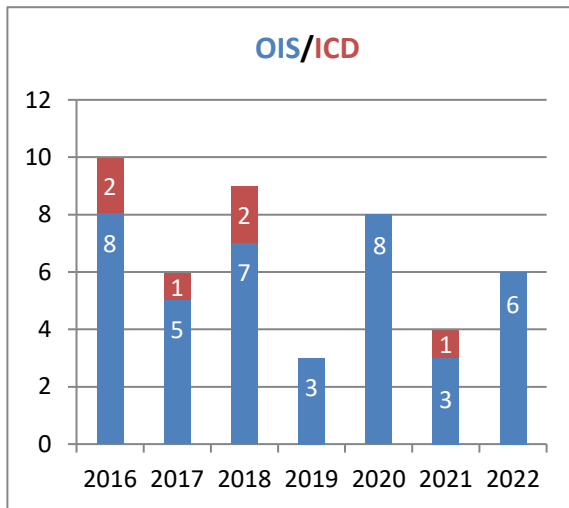
FIRST THREE QUARTER COMPARISONS OF MATTERS BY DISTRICT



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	9/14/2022	W/IN POL	W/IN POL	SUBJECT APPEARED TO BE UNDER THE INFLUENCE & RESISTED BEING DETAINED. SUBJECT PRONOUNCED DECEASED AT THE HOSPITAL. SUBJECT ALLEGEDLY COMMITTED ATTEMPTED MURDER, CARJACKING, AND KIDNAPPING.
21-0107	12/22/2021	8/31/2022	W/IN POL	W/IN POL	SUBJECT CALLED 9-1-1 AND WHEN Os ARRIVED HE POINTED A TOY WEAPON AT THEM, NON-FATAL
22-0001	1/2/2022	8/25/2022	W/IN POL	W/IN POL	SUBJECT RESISTED ARREST THEN STABBED A FCSO K-9. SUBJECT WAS SHOT BY FPD Os, NON-FATAL
22-0006	1/13/2022	8/31/2022	W/IN POL	W/IN POL	Os SHOT SUBJECT 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 SUBJECT WHO HAD POINTED A REPLICCA WEAPON AT RESPONDING Os, FATAL
22-0039	6/18/2022	P			Os SHOT SUBJECT WHO REFUSED TO DROP WEAPON, FATAL

During the review period there were three OIS investigations completed, along with one ICD investigation completed. Although, all completed investigations were deemed within policy by the FPD and this office, there were issues raised by this office in two of the OIS matters. The issues can be found in the summaries of IA2021-0107 and IA2022-006 which appear in the following pages. There were no new OIS or ICD cases initiated during the review period.

IA2021-0072: On Saturday, September 4, 2021, at 12:00 PM, the FPD Communications Center received several 9-1-1 calls regarding a Hispanic male, hereafter referred to as the subject, running in the area of South Sylmar and South Karen Avenues while yelling, “Take me to Heaven.” The subject also entered a limousine as the driver was preparing to depart the area to pick up passengers. As officers were responding to the call for service callers advised the subject was now on the front porch of a home on South Karen and bleeding from the mouth. The subject was now yelling, “Forgive me Jesus for what I have done to my family” and other statements which concerned the residents of the home. The residents advised 9-1-1 they had never seen the subject before, and he was not known to anyone in their home. Responding officers requested Emergency Medical Services (EMS) respond and standby in the area.

When officers arrived on scene they found the subject on the front porch of the home sweating profusely. The subject was on his knees bowing up and down while yelling in English and Spanish. Officers tried repeatedly to communicate with the subject, but he would not acknowledge their presence or respond to their questions or commands. The subject appeared to be under the influence of some type of narcotic. An abrasion was observed on his forehead and blood near his mouth. It was decided the subject needed to be secured to prevent him from causing additional harm to himself.

When officers attempted to handcuff the subject, he moved his hands underneath his body and refused the efforts of the officers to place his hands behind his back. The subject was told to place his hand behind his back at least eleven times. He was also told he would be tased if he did not comply. Once it was determined he was not going to comply the subject received three contact Taser applications, which had little effect. The officers were finally able to move his hands behind his back and apply the handcuffs. Due to the size of the subject the officers used three sets of handcuffs which also minimized the amount of force needed to place his hands behind his back. Once he was handcuffed the officers moved the subject from the concrete porch to a shaded grassy area in the front yard while awaiting EMS to arrive.

The subject continued to resist the officers by spitting and kicking while lying on his side in the grass. Officers had to repeatedly move the subject on to his side because he would kick at the officers and roll onto his chest. EMS arrived on scene and the subject was being prepared to be placed on the gurney when it was noticed he stopped breathing. EMS personnel immediately began CPR while loading the subject into the back of the ambulance. The subject was transported to the hospital where he unfortunately was declared deceased.

The home was outfitted with a security camera on the front porch which recorded the moment the subject positioned himself on the porch and began acting erratically. The camera continued recording when the officers arrived and eventually handcuffed the subject and moved him off of the porch. In addition to the home security camera the officers had activated their respective BWC and captured the interaction with the subject. A review of the recordings confirmed the officers used the least amount of force needed to properly secure the subject throughout the incident.

Additionally, several interviews were conducted of the residents and neighbors who witnessed the subject acting erratically and the actions of the officers. The witnesses were specifically asked if they saw any of the officers hit, strike, punch, or use excessive force while dealing with the subject. Below are a few of the responses provided by the witnesses:

1. "Absolutely not"
2. "Did their job and did it right"
3. "Gentle, talked to him"
4. "Moved him to the grass and were slow and gentle"
5. "Really careful about how they were holding him"
6. "Laying on his side, never saw him go face down"
7. "Handled it perfectly"

In view of the totality of circumstances, it was reasonable for the officers to use the necessary force to place the subject into handcuffs due to his erratic behavior and refusal to comply with lawful commands. To aid in applying the handcuffs with minimal force, three sets of handcuffs were used due to the size of the subject. Therefore, the preponderance of evidence supports the conclusion the officers' use of force was not excessive, and the Taser applications were justified resulting in a finding of **within policy**.

IA2021-0107: On Wednesday, December 22, 2021, at 10:40 PM, the Fresno Police Department Communications Center received a 9-1-1 call regarding an unknown male, hereafter referred to as the subject, had displayed a handgun and made threats he was going to start shooting. The caller advised the subject was driving a white Volkswagen and driving through the parking lot at 9471 North Fort Washington Road. Unbeknownst to the Fresno Police Department (FPD) and responding officers, the caller was one in the same as the subject. Two officers, O1 and O2, were dispatched in separate FPD marked patrol vehicles to respond to the described location.

While enroute to the location O1 was able to telephonically contact the 9-1-1 caller (subject) to obtain additional details. The caller provided a clothing and vehicle description but advised he was no longer in the area as he was returning to his home in Madera. O2 was the first officer to arrive on scene and observed a vehicle matching the description provided by the caller. At one point the subject's vehicle drove past O2 so it was possible the subject knew FPD was now on scene. The subject began driving recklessly through the parking lot which was perceived by O2 as the subject was trying to lure O2 to close the distance between the two. O2 remained at a distance while he broadcasted the actions of the subject while waiting for additional officers.

O2 stopped his vehicle approximately twenty yards from the subject's vehicle as O1 arrived on scene and parked to the right of O2. The officers were unable to see into the vehicle and due to the nature of the call began giving commands for the subject to exit the vehicle. The subject exited the vehicle and began walking directly towards O2. The subject was given numerous commands to show his hands, but he refused to comply. As the subject continued towards O2 he kept his right hand in the right pocket of his hooded sweatshirt. O2 repeated commands for the subject to remove his right hand from his pocket or he would be shot.

When the subject was approximately 10 to 15 yards from O2 he quickly withdrew his right hand from his pocket and assumed a shooting stance in the direction of O2 while holding what was described as a shiny object in his right hand. Fearing O2 or O1 were about to be shot, O2 fired three rounds from his department issued handgun. The subject continued advancing towards O2. In an attempt to create more distance from the subject, and to obtain better protective cover, O2 tried to move behind his patrol vehicle. However, due to the recent rain O2 slipped on the wet pavement and fell to ground. At the same time O1 began firing at the subject.

When O2 fell he attempted to brace himself and suffered a broken bone in his wrist. The sharp pain combined with the shots being fired by O1 caused O2 to believe the subject was shooting at him. When O2 stood back up he fired several more shots at the subject until he noticed the subject was now on the ground and not presenting a threat to the officers. Once additional officers arrived on scene, life saving measures were administered by the officers. A short time

later Emergency Medical Services arrived on scene and assumed the life saving measures. The subject suffered non-fatal wounds.

Several interviews were conducted immediately after the officer involved shooting, to include the subject. A recent former girlfriend stated there was concern something similar to this was going to happen but her attempts to avoid this outcome were unsuccessful. The subject admitted he wanted to commit “suicide by cop” and stated, “I made a fast movement because I wanted you guys to shoot me.” The use of a mental health clinician was not practical in this situation due the possibility of the subject being armed with a gun and the threats of him shooting.

Both officers had activated the BWC prior to arriving on scene. Their respective recorders captured the events in their entirety. Based on the information received from the caller/subject, and the actions of the subject when officers ordered him to show his hands, the officers were **within policy** when they used deadly force. The [Critical Incident Video](#) was released by the FPD on February 4, 2022, and can be found at:

<https://www.youtube.com/watch?v=WI5BqLbc4gc&t=316s>

Although the officer involved shooting was determined to be within policy this office felt the second series of shots by O2 were not warranted. By the time O2 stood back up it did not appear the subject still presented a threat to the officers. It is unknown how many, if any, of O2’s second series of shots hit the subject as he was struck more times than the number of rounds fired during O2’s second series.

IA2022-0001: On January 1, 2022, the Fresno Police Department ComCen received a 9-1-1 call from a family member of the wife of the subject. The caller was reporting the wife of the subject and her child were being held hostage by the subject. The wife advised the caller the subject was armed with a handgun and threatened to shoot the wife. Officers responded to the location and determined the subject had an outstanding arrest warrant from the United States Marshal’s Office. The caller was able to remove the child from the residence before officers arrived. Once on scene the officers were able to escort the subject’s wife from the residence. The wife relayed to the officers the subject stated he would remain in the residence until “police killed him.” After interviewing the wife, investigators determined the subject was in violation of California Penal Codes 273.5, Corporal Injury to a Spouse, and 29800(a)(1), Felon in Possession of a Firearm, both felonies.

Members of the FPD’s Crisis Negotiation Team responded and attempted to establish communication with the subject over the next eight hours. The team was unable to establish any level of communication with the subject and the team disengaged and departed from the scene. Plain clothes officers in unmarked police cars continued surveilling the residence overnight. The following morning uniformed personnel again attempted to establish communication with the subject. After not getting a response from the residence and not detecting movement the officers cleared the scene. The subject was no longer a threat to anyone other than himself since he was now the sole occupant of the residence. Also, the fact the subject was reported to be armed with a firearm raised the probability of the officers deploying deadly force to protect themselves in the event they elected to force entry into the residence.

The decision to de-escalate the situation and clear the scene was in accordance with the FPD Use of Force Policy 300.4, and California Penal Code 835a, which reads in part as follows:

Officers shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (PC §835a).

FPD maintained contact with the subject's family in an effort to allow them to convince the subject to surrender peacefully. The initial attempt made by the family was unsuccessful. However, the following day the family was able to persuade the subject to leave the residence after the FPD officer had cleared the scene. Family members immediately recognized signs the subject was under the influence of methamphetamine. They stated the subject was extremely paranoid and acting irrationally. The subject was armed with a knife when he left the residence with his family members. The family drove the subject to their residence on the outskirts of the city which was located on a five-acre parcel of primarily undeveloped land. Once at the residence a family member contacted the FPD to advise where they could find the subject.

FPD officers responded to the family's residence and were directed to the area where the family last observed the subject. Due to the FPD not having a K-9 officer available at the time, a request was made to the Fresno County Sheriff's Office, who dispatched a K-9 deputy to assist. When officers advanced on the building where the subject was last seen the subject was spotted in an adjacent field approximately 100 yards from the officers. The subject was observed with his hands in pockets as he was moving. One FPD officer who had prior interactions with the subject attempted to engage in dialogue with the subject. The subject responded with profanity and was not receptive to engaging with the officer. In addition to a K-9 deputy, one officer and one deputy were armed with less lethal projectile systems. If possible the intent was to use less lethal means to take the subject into custody.

Officers continued their efforts to establish communication with the subject for the next 27 minutes as he continued to move away from them through nearby fields and an orange grove. At one point a family member attempted to grab the subject only to have the subject produce the knife and swing his arm in the direction of the family member. A nearby officer then made a radio broadcast alerting other officers the subject had a knife in his hand. Officers continued to follow the subject through the fields while trying to establish a perimeter to limit his egress.

As the officers advanced towards the subject the K-9 deputy began instructing the subject to get on the ground or the K-9 would be released, and he would be bit. The deputy repeated this announcement several times to which the subject responded, "Yeah, I heard you the first time. I can't, I got leg problems." The subject continued to move away from the officers and refused to remove his hands from his pockets.

The deputy then released the K-9 as officers moved forward towards the subject. Once the K-9 reached the subject he removed the knife from his pocket and began stabbing the K-9. By this time the officers and deputy were in close proximity to the subject and were in danger of also being stabbed by the subject. In order to stop the threat two FPD officers fired a total of six

rounds which were non-fatal. The subject then dropped the knife and officers handcuffed him. Officers immediately began administering life-saving measures and requested the ambulance, which was staged nearby, to respond to the scene. The K-9 suffered three non-fatal stab wounds from the knife pictured below.



Several officers had activated their Body Worn Cameras (BWC) upon arriving at the family's residence. The BWC recordings captured the events of the incident from the moment they began looking for the subject until they administered life saving measures. During several of the follow-up investigative interviews family members alleged there were no K-9 announcements, and the shots were fired prior to the K-9 being released. However, the BWC recordings clearly disputed these allegations. The recordings captured the announcements, the subject's response acknowledging he heard the announcements, and the K-9 barking prior to being released.

The subject was subsequently arrested on the previously referenced felony violations and California Penal Code 600(a), Injury to a Police Horse or Dog. Because the OIS occurred as the sun was setting the still frames from the recordings offered little value to this report due to the lighting conditions. However, when viewing the recordings in a video format the actions of the officers and the subject were observed.

The fact the subject had committed a felony while in possession of a firearm the day prior and was armed with a knife when his family called FPD, the deployment of a mental health clinician was not feasible, nor practical.

Therefore, the FPD officers were justified and **within policy** to use deadly force to protect themselves and the deputy from death or serious bodily injury. To promote transparency the FPD released the [Critical Incident Video](#) on October 6, 2002:

<https://www.youtube.com/watch?v=PrQmQ855i3Q&t=342s>

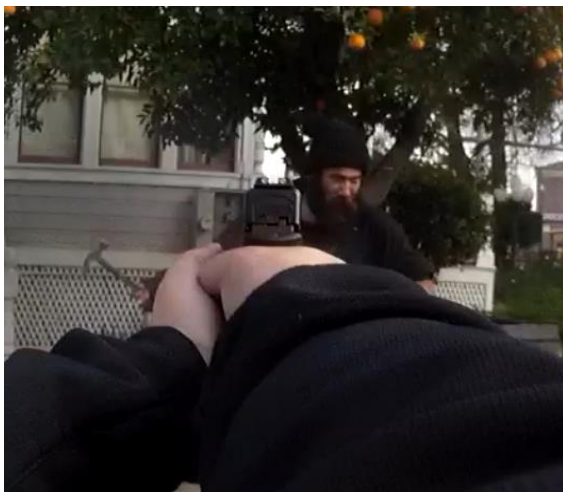
IA2022-0006: On January 13, 2022, at 12:04 PM, the FPD Communications Center received a 9-1-1 call, for a report of vandalism at the Meux Home Museum, 1007 R Street. The caller

provided a description of the subject who was pacing around the property while holding a knife. Two officers, O1 and O2, arrived in separate marked FPD patrol vehicles. Access to the gated and locked premises was granted by the caller who was standing by awaiting the officers. As the officers assessed the exterior of the museum physical signs of a possible burglary were observed but the subject was no longer pacing around the property. It was believed the subject was now inside the museum. The officers established a perimeter and requested a K-9 officer and additional officers based on their findings.

While the officers were waiting on the arrival of additional officers, to include a K-9 officer, the subject exited the museum through the rear door and began yelling at the officers. The officers had their firearms pointed at the subject and gave commands for him to get on the ground to which he refused to do so. The subject was yelling profanity at the officers and started to advance towards the officers. O2 holstered his firearm and withdrew his Taser. The subject switched his attention from O1 and began walking towards O2. Commands were given by O2 for the subject to stop and get on the ground or he would be tased.

The subject refused to stop advancing and came within an arm's length of O2 who tried to push the subject back with his hand that was not holding the Taser. The subject tried to punch O2 with a closed fist which O2 avoided by stepping back. O2 then discharged his Taser which caused the subject to temporarily go to his knees. The subject then grabbed one of the Taser wires and pulled out the Taser prong from his body as he stood up. The subject then retrieved a metal hammer from a nearby bench. It was later determined the subject had removed the hammer from inside of the museum and placed it on the bench with several other items he removed from inside of the museum.

The subject raised the hammer above his head and began to rapidly advance towards O2. At this point O1 discharged her firearm four times to prevent the subject from striking O2, which would have caused serious bodily injury or even death. O2 also fired one round from his firearm which jammed after the round was fired. The subject immediately fell to the ground and no additional rounds were fired by either officer. Life saving measures were administered by the responding officers along with EMT who arrived shortly thereafter. Unfortunately, the subject was pronounced deceased at the scene.



The FPD released the [Critical Incident Video](#) for the event on February 25, 2022. The link for the video appears below:

<https://www.youtube.com/watch?v=zlwr8G8JRZU&t=13s>

Due the caller advising the subject was armed with a knife and possibly committing a crime the possibility of dispatching a mental health clinician was not practical. In view of the need for the officers to protect themselves and act immediately to stop the threat of being struck with a hammer, the only available option was the use of their firearms. Therefore, the use of deadly force was within FPD's Use of Force Policy.

Observation #1: Although it was determined the officers were within policy, an issue was noted which is resulting in a recommendation to the FPD. O2's weapon malfunctioned after he fired one round. O1's quick and proficient action prevented the subject from causing serious bodily injury or death to the officers. O2's weapon malfunction is commonly referred to as a "stove pipe." Without getting too technical, it can be explained as the weapon failing to eject an expended, or fired, cartridge thus preventing the weapon from loading the next round to allow consecutive rounds to be fired.

There are several reasons why this may occur, but one of the more common reasons is due to improper gripping of the weapon. Opinions vary on the exact percentage breakdown, but the gripping of a handgun is made up of 30 to 40% by the dominant hand (hand used to depress the trigger) and the remaining grip by the support hand which makes up a majority of the grip. A thorough analysis of the BWC recordings revealed O2 was presented with keys to the museum by the caller when it was believed the subject was possibly inside. O2 retained the keys in his support hand throughout the incident, to include when he transitioned from his handgun to the Taser and then back to his handgun. By holding the set of keys in his support hand he was unable to firmly grasp the handgun which possibly contributed to the stove pipe. O2 was still holding the keys in his support hand even when he tried to clear the weapon malfunction. The failure to properly grip the firearm could also have a negative impact on the accuracy of the shots being fired. Based on the BWC recording O2 held the keys in his support hand for more than two and a half minutes, giving him ample time to discard or secure the keys in a pocket.

Recommendation #1: I have personally attended firearms training sessions at the FPD Regional Training Center (RTC), which in my opinion is some of the best training I have observed during my more than 20 years as an FBI Firearms, Police, and Tactical Instructor. Therefore, it should be noted this issue is not overlooked in their instruction, nor common among the officers of the FPD. It is recommended O2 be subject to additional training to emphasize the importance of fully utilizing the support hand in establishing the proper grip of a weapon. Although O2's firearm was relatively new, the possibility does exist the weapon experienced a mechanical malfunction, and it was not due to operator error. However, as of September 20, 2022, the FPD advised the weapon is still in the possession of the California Department of Justice and not yet available for testing by FPD RTC personnel.

STATUS OF INTERNAL AFFAIRS INVESTIGATIONS BY CLASSIFICATION

BIAS BASED					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
22-0036	6/3/2022	P			CP ALLEGED O WAS BIASED AND USED UNREASONABLE FORCE

During the review period there were no new Biased Based investigations initiated and one case remained pending which was initiated during the previous review period.

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
21-0087	10/15/2021	7/25/2022	EX x 2 EX x 2 SUS x 2	EX x 2 EX x 2 NR	CP ALLEGED Os USED UNREASONABLE FORCE, Os FAILED TO DOCUMENT UOF DEPT ALLEGED Os VIOLATED BWC POLICY
21-0088	10/15/2021	7/6/2022	SUS	NR	DEPT ALLEGED O 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
22-0018	3/29/2022	8/23/2022	EX	EX	CP ALLEGED Os USED UNREASONABLE FORCE DURING ARREST
22-0050	7/20/2022	P			CP ALLEGED Os USED EXCESSIVE FORCE DURING THE ARREST OF THE CP
22-0058	8/19/2022	P			DEPT ALLEGED O USED UNREASONABLE FORCE DEPT ALLEGED O DIRECTED PROFANITY AT SUBJ
22-0061	8/22/2022	P			CP ALLEGED O USED UNREASONABLE FORCE DEPT ALLEGED O FAILED TO DOCUMENT USE OF FORCE
22-0069	9/9/2022	P			CP ALLEGED Os USED UNREASONABLE FORCE CP ALLEGED Os WERE DISCOURTEOUS CP ALLEGED O FAILED TO PROVIDE ID

UNREASONABLE FORCE					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
22-0074	9/14/2022	P			CP ALLEGED O USED UNREASONABLE FORCE

Three Unreasonable Force investigations were completed during the review period. This office concurred with the findings reached by FPD. The FPD did determine two of the three cases were sustained, but it should be noted one case was sustained for failing to activate a BWC and not for unreasonable force.

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	9/1/2022	SUS	NR	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
21-0084	10/14/2021	P			DEPT ALLEGED OFF-DUTY O WAS ARRESTED FOR DISORDERLY CONDUCT AND RESISTING ARREST
21-0085	10/14/2021	9/1/2022	SUS	NR	CP ALLEGED O MADE AN INAPPROPRIATE COMMENT DEPT ALLEGED O FAILED TO ACTIVATE BWC AND FAILED TO DOCUMENT THE DETENTION OF A PARENT
21-0097	11/22/2021	9/13/2022	SUS	NR	DEPT ALLEGED O WAS INVOLVED IN ON-DUTY UNBECOMING CONDUCT
22-0008	1/25/2022	P			DEPT ALLEGED O CITED FOR OFF-DUTY CONDUCT
22-0013	3/9/2022	P			DEPT ALLEGES O TICKETED COURT STAFF AFTER O WAS ASKED TO MOVE O's VEH FROM 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
22-0017	3/25/2022	9/29/2022	SUS	NR	DEPT ALLEGED O WAS ARRESTED FOR DUI
22-0024	4/8/2022	8/22/2022	SUS	NR	DEPT ALLEGED EMP WAS DISCOURTEOUS TO SUPERVISOR

DISCOURTEOUS TREATMENT OR CONDUCT UNBECOMING OF A POLICE OFFICER					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
22-0025	4/19/2022	9/22/2022	UNF	UNF	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 SUBJECT WHO DISCARDED A FIREARM IN THE AMBULANCE USED TO TRANSPORT THE SUBJECT 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	9/14/2022	UNF SUS SUS SUS	NR	DEPT ALLEGED O IS INVOLVED IN CRIMINAL ACTIVITY BASED ON ANONYMOUS TIP FAILED TO DEVOTE ON-DUTY TIME TO WORK DUTIES MISLEADING ENTRIES WITH INTENT TO DECEIVE EXAMINE RECORDS WITHOUT OFFICIAL NEED
22-0038	6/9/2022	P			CP ALLEGED Os FAILED TO USE SEAT BELT ON CP DURING TRANSPORT RESULTING IN INJURY
22-0042	7/12/2022	P			CP ALLEGES O GAVE CP's PETS TO AN INDIVIDUAL WITHOUT CP's PERMISSION SUBSEQUENT TO ARREST
22-0045	7/18/2022	P			CP ALLEGED O WAS INAPPROPRIATE DURING POST ARREST SEARCH OF CP'S PERSON IN 2013
22-0048	7/20/2022	P			DEPT ALLEGED AN EMP WAS ARRESTED FOR DUI
22-0049	7/20/2022	P			DEPT ALLEGED OFF-DUTY O WAS DETAINED FOR HAVING WEAPON IN CARRY-ON AT AIRPORT
22-0052	7/25/2022	P			CP ALLEGED O's OFF-DUTY CONDUCT AT SOCCER GAME WAS UNBECOMING
22-0059	8/19/2022	P			CP ALLEGED O FAILED TO DOCUMENT A DV CASE
22-0060	8/19/2022	P			CP ALLEGED O WRONGLY DISCARDED CP's PROPERTY

DISCOURTEOUS TREATMENT OR CONDUCT UNBECOMING OF A POLICE OFFICER					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
22-0063	8/23/2022	P			DEPT ALLEGED Os WERE DISCOURTEOUS TO EACH OTHER
22-0072	9/12/2022	P			DEPT ALLEGED O WAS ARRESTED FOR DV MATTER
22-0073	9/14/2022	P			DEPT ALLEGED O WAS UNPROFESSIONAL WHILE HANDLING A CALL FOR SERVICE
22-0076	9/21/2022	P			DEPT ALLEGED O WAS UNDER THE INFLUENCE OF ALCOHOL WHILE ON DUTY
22-0078	9/21/2022	P			DEPT ALLEGED O WAS ON DUTY WHILE UNDER THE INFLUENCE OF ALCOHOL

Seven case investigations within the above charted category were completed during the third quarter. The FPD determined the allegations were sustained in six of the seven completed investigations. There were 12 cases initiated during the same period.

ADMINISTRATIVE OR PERFORMANCE MATTERS					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
21-0086	10/14/2021	9/14/2022	SUS SUS SUS SUS	NR	DEPT ALLEGED O FAILED TO DEVOTE ON-DUTY TIME TO ASSIGNED DUTIES LEAVING JOB WITHOUT APPROVAL UNLAWFUL EXERCISE OF AUTHORITY WORK RELATED DISHONESTY
21-0093	11/10/2021	9/22/2022	SUS	NR	DEPT ALLEGED O DID NOT OBTAIN OFF-DUTY WORK PERMIT
21-0106	12/22/2021	9/13/2022	SUS x 2	NR	DEPT ALLEGED Os FAILED TO DOC EVIDENCE DEPT ALLEGED Os FAILED TO ACTIVATE BWC
21-0108	12/29/2021	8/23/2022	SUS NS SUS UNF	NR NS NR UNF	DEPT ALLEGED THE EMP OF THE FOLLOWING: EMP FAILED TO DEVOTE TIME TO WORK DUTIES UNAUTHORIZED USE OF DEPT EQUIPMENT DEPT UNAUTHORIZED COMPUTER USE UNAUTHORIZED POSSESSION OF DEPT PROPERTY
22-0003	1/5/2022	P			CP ALLEGED FPD FAILED TO CONDUCT A THOROUGH INVESTIGATION
22-0023	4/5/2022	P			DEPT ALLEGED EMP USED SIGNIFICANT SICK LEAVE WITHOUT PROPER DOCUMENTATION

ADMINISTRATIVE OR PERFORMANCE MATTERS					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
22-0026	5/3/2022	P			CP ALLEGED O LOST CP's PROPERTY AFTER BEING ARRESTED
22-0028	5/16/2022	P			DEPT ALLEGED O FAILED TO ATTEND MANDATORY DV TRAINING
22-0032	5/17/2022	9/1/2022	SUS	NR	DEPT ALLEGED O INADVERTENTLY FIRED DEPT ISSUED RIFLE WHILE CONDUCTING A WEAPONS CHECK
22-0034	6/2/2022	P			DEPT ALLEGED O COPIED AND DISSEMINATED A SENSITIVE DOCUMENT WITHOUT APPROVAL
22-0041	7/11/2022	P			CP ALLEGES WEAPONS WERE SEIZED AND IMPROPERLY DESTROYED FOLLOWING A SEARCH WARRANT
22-0043	7/13/2022	P			DEPT ALLEGES O LEFT OFF-DUTY WEAPON IN PUBLIC RESTROOM
22-0044	7/14/2022	P			DEPT ALLEGES O IMPROPERLY USED SICK LEAVE
22-0046	7/20/2022	P			DEPT ALLEGED O DID NOT COMPLETE DUI REPORT IN A TIMELY MANNER
22-0047	7/20/2022	P			DEPT ALLEGED O NEGLECTED SEVERAL REQUIRED DUTIES AS A PATROL OFFICER
22-0053	8/8/2022	P			DEPT ALLEGED EMP IS ABUSING LEAVE POLICY
22-0054	8/8/2022	P			DEPT ALLEGED EMP IS ABUSING LEAVE POLICY
22-0056	8/17/2022	P			DEPT ALLEGED RECRUIT O DID NOT PROPERLY SEARCH DETAINED SUBJ AND A WEAPON WAS LATER FOUND IN THE PATROL VEH WHERE SUBJ WAS PLACED
22-0057	8/18/2022	P			DEPT ALLEGED Os FAILED TO REVIEW REPORTS DEPT ALLEGED OS FAILED TO SUPERVISE
22-0062	8/22/2022	P			DEPT ALLEGED O ENGRAVED FPD LOGO ON DUTY WEAPON WITHOUT DEPT APPROVAL
22-0071	9/12/2022	P			DEPT ALLEGED Os FAILED TO PERFORM DUTIES
22-0077	9/21/2022	P			DEPT ALLEGED SGT DID NOT NOTIFY CHAIN OF COMMAND RE DEPT VEH VS PED ACCIDENT
22-0079	9/27/2022	P			DEPT ALLEGED O FAILED TO COMPLETE REPORTS
22-0080	9/27/2022	P			DEPT ALLEGED O CONDUCTED IMPROPER PURSUIT

In each of the five Administrative or Performance Matter case investigations completed during the review period the FPD found a department policy was violated. During the same period 14 new cases were initiated and assigned to an investigator.

There were five Vehicle Accident case investigations completed during the review period. In all five cases the officers were found to be in violation of a department policy. During the same period nine new case investigations were initiated.

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. During this quarter three officers were terminated, 10 officers were suspended a total of 600 hours, and five officers were required to attend additional training. The hours of suspensions varied for each officer. 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 3rd QUARTER 2022			
		DEPT	CP	OIS	TOTALS
SUSTAINED		15	3	0	18
NOT SUSTAINED		0	0	0	0
UNFOUNDED		0	1	0	1
EXONERATED		0	1	0	1
WITHIN POLICY* *OIS-Person/OIS Dog/Firearm Discharge/Lethal Force		1	N/A	3	4
WITHDRAWN/CASE SUSPENDED		1	0	0	1
TOTAL FINDINGS		17	5	3	25

ANNUAL DISCIPLINES ISSUED	2016	2017	2018	2019	2020	2021	2022 (YTD)
TERMINATIONS	7	3	2	8	5	5	4
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	23
PAYMENT IN LIEU OF	0	0	0	4	1	0	0
FINES	0	0	0	0	0	0	1
MEDICAL SEPARATION	NA	NA	NA	3	0	0	0
LETTERS OF REPRIMAND	9	10	15	17	15	25	8
LAST CHANCE AGREEMENT	N/A	N/A	N/A	N/A	N/A	4	1
TOTAL	32	31	49	72	84	59	40

MATTERS NOT RELATED TO AN IA INVESTIGATION

Occasionally a member of the community will focus on an incident involving the FPD in which some level of force was used by officers. The incident will often be portrayed as if the FPD routinely applies force when responding to calls for service. In an effort to display transparency the FPD publishes quarterly and annual reports titled [Reportable Response to Resistance Report](#) which is then posted on the FPD website. The annual report for 2021 was released during the third quarter. Officers are mandated to report applications of force which are defined below. The applications are then documented and reviewed to ensure compliance with the [FPD Policy 300](#):

The Reportable Response to Resistance database contains data on any incident whereby:

1. Members (including K9's) use force and a person is injured; has expressed a complaint of pain or has been rendered unconscious.
2. Members strike a person with a body part (i.e., fist, foot, elbow, etc.) or any object (i.e., flashlight, clipboard, etc.) including misses; or
3. Members use (not merely display) a department issued weapon (i.e., baton, chemical agents, Taser, less-lethal shotgun, firearm, etc.) against another, including misses

The 16-page 2021 report contains detailed applications of force to include, but not limited to, age, race, gender, day of the week, hour of the day, police district, and actions of the suspect necessitating the use of force. In 2021 the FPD responded to 388,029 calls for service. Of those calls for service force was used a total of 158 times, which equals less than one tenth of one percent (0.047). This represents a 30% reduction in the use of force compared to the previous year, 2020.

In an attempt to further reduce the use of force, specifically deadly force, Chief Balderrama recently authorized a revision to the FPD Policy 1030, Employee Commendations. The following language was added to the categories in which a department member can receive a commendation:

1030.5.6 TACTICAL DE-ESCALATION RIBBON

The Tactical De-Escalation Ribbon is awarded to members who have distinguished themselves by employing exceptional tactical skills or verbal approach or techniques to de-escalate any deadly force situation resulting in the saving or sustaining of a human life. This award acknowledges our personnel's outstanding performance often volatile or dangerous encounters while displaying the values of our agency.

Community members are encouraged to review the 2021 report to learn more about the frequency of when force is being applied by FPD officers when responding to the numerous calls for service. The website also lists the reports as far back as 2014.

SUMMARY

It was mentioned in the second quarter report our former Community Coordinator, Maira Aguilar, was promoted to a position in a different City of Fresno department. We feel very fortunate to have found an outstanding person to fill the vacancy. Arlene Medina previously served as a Community Service Officer for the FPD for more than 20 years. She was recently recognized with a City Proclamation for her outstanding service to the community while with the FPD. There was no acclamation period for Arlene as she has already attended many community events since being hired. She welcomes all invitations to set up an information booth at local events.

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

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Independent Reviewer
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