



Office of Independent Review

Quarterly Report Fourth Quarter 2016

**Richard Rasmussen
Police Auditor**

Purpose of the Office of Independent Review

The Office of Independent Review (OIR) is responsible for ensuring that complaints about the conduct of the Fresno Police Department (FPD) are thoroughly investigated to enhance community trust. The OIR monitors ongoing investigations conducted by the FPD Internal Affairs (IA) unit and, when completed performs a comprehensive audit of the process. Each audit report will focus on evaluating the adequacy, thoroughness, quality and accuracy of the investigative report. The OIR assists in strengthening the relationship between the community and the police department by promoting greater transparency and collaboration.

By design, the OIR is independent from the FPD allowing it to work as a conduit in the community. As such, the OIR meets regularly with members from local groups to listen to the public's interest and perspective.

The OIR is scheduled to release four quarterly reports per year to increase transparency, public awareness and understanding.

Purpose of the Report

The objective of the OIR, in preparing this report is that the constituents of the City of Fresno see transparency by all parties involved in the review of complaints.

The following report is intended to show a detailed summary of all complaints submitted to the FPD during the fourth quarter of 2016. The OIR does not conduct its own investigation but is given full access, monitors and contributes to the existing IA investigation. Once IA has completed its investigation the file is submitted to the OIR for audit.

The fourth quarter report reflects all complaints made to the IA Unit of the FPD, along with the recommendations made by the OIR between the dates of October 1, 2016 – December 31, 2016. The report is reflective of complaints that are handled within the Inquiry Complaint Form (ICF) system, as well as those more serious allegations which are immediately assigned within the IA Pro system. Some complaints begin as ICFs and once that investigation is concluded, mutate to become full IA investigations. As the tables within this report reflect, some cases are still pending with the IA Unit and will be audited upon completion of IA's own examination of those cases. Also within this report are separate tables that list pending cases in previous quarters; these tables will detail if the cases have since been audited or continue in a pending status.

Additionally, recommendations are always communicated to the FPD within the audit, regarding the case that generated the recommendation. Other, broader recommendations and/or "trends" are also communicated to the FPD as they are identified weeks prior to the OIR Quarterly Report being published. This is an effort to ensure that the FPD is aware of issues and is able to react, address or consider each item, and is done so in the most time effective manner possible. The FPD has been extremely responsive to these notifications and has offered clarifying information or language, prior to the reports being published.

**Identified Trends/Issues and Relayed to the Fresno Police Department (FPD)
Office of Independent Review Recommendations:**

Below is a list, provided by the FPD Internal Affairs Unit, of complaints filed with the FPD over the past six years. As can be seen, the number of IA investigations dropped off significantly this past year with a drop of 28 complaints over the lowest year in this six year span and a drop of 46 complaints, per year, versus the previous 5 year average of 136.6. These IA investigations represent the most serious of the complaints brought forward via all vectors. In the ICF section, consisting of the less serious alleged violations, the data from 2016 shows a reduction from the five year average of 480.8 to 373 a decrease of nearly 107 complaints, or more than 22% decrease, which is an encouraging trend.

Also illuminated below is the fact that in the category of IA Investigations, which delve into the most serious allegations of misconduct, the complaints were split 50/50, in 2016, between citizen complainants and those generated from within FPD. As to the matter of corrective action, the data demonstrates that in over one third of the most serious cases, an officer received some sort of corrective measure. For example, in 2016 there were 90 complaints received in which 32 officers were subject to some form of corrective action and training. (Although without a complete review of every ICF case finding, it is possible that two of the ICF cases wherein a finding of “sustained” was rendered, resulted in department management.) Below is the data on this topic:

**2016 FPD STATS
FOR INTERNAL AFFAIRS INVESTIGATIONS**

| ANNUAL IA INVESTIGATIONS | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 |
|-----------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| DEPT GENERATED | 78 | 65 | 67 | 56 | 69 | 45 |
| CITIZEN GENERATED | 70 | 67 | 78 | 66 | 73 | 45 |
| TOTAL | 148 | 132 | 145 | 122 | 142 | 90 |
| | | | | | | |
| ICFs (INQs) | 570 | 515 | 505 | 408 | 406 | 208 |
| ICs* (Informal Complaints) | n/a | n/a | n/a | n/a | n/a | 165 |
| TOTALS | 570 | 515 | 505 | 408 | 406 | 373 |

*NOTE- ICs started in 2016

| DISCIPLINE ISSUED | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 |
|---|-------------|-------------|-------------|-------------|-------------|-------------|
| TERMINATIONS | 3 | 8 | 5 | 3 | 5 | 7 |
| RESIGNATIONS IN LIEU OF DISCIPLINE | 0 | 2 | 1 | 1 | 0 | 0 |
| RETIREMENT | 1 | 0 | 0 | 0 | 0 | 0 |
| DEMOTIONS | 0 | 0 | 0 | 0 | 0 | 0 |
| SUSPENSIONS | 8 | 11 | 15 | 14 | 13 | 16 |
| PAYMENTS IN LIEU OF | 0 | 2 | 0 | 1 | 0 | 0 |
| FINES | 0 | 2 | 0 | 0 | 1 | 0 |
| LETTERS OF REPRIMAND | 18 | 23 | 11 | 7 | 11 | 9 |
| TOTAL | 30 | 48 | 32 | 26 | 30 | 32 |

A review of the complaints this quarter do not show any pattern of alleged misconduct that can be associated with a specific unit within the FPD. The use of body cameras is improving but still needs to expand to being a universally used tool in every incident detailed in the Policy Manual.

Policy and Procedure Audit Summary

Introduction:

The Office of Independent Review (OIR) is charged with reviewing policies and procedures of the Fresno Police Department (FPD) to ensure compliance with the policy, the Chief of Police's core values and directives, as well as conforming to national standards within law enforcement and the community values. This process is done by audit of policy, directives or new policy development.

FPDs, current policies, procedures are very detailed, complete, and professional and are maintained in accordance with the Commission on Accreditation for Law Enforcement Agencies (CALEA), which in itself is already a high standard for any law Enforcement Agencies. However, given the evolving nature of law enforcement and the public's valid expectations related to transparency and accountability, the following review and recommendations are only intended to augment and improve the Department's already existing policy and use of the FPDs Real Time Crime Center, (RTCC).

FPDs current policy relating to the RTCC and the personnel whom work within the center is very detailed, well thought out, showing a complete understanding of the sensitive nature of privacy and safety and intelligence.

State and municipal police agencies throughout the United States following 9/11 attacks realized that to protect the citizenry and property of jurisdictions they have stewardship of and have responsibilities for, would need to have their duties increased. Now not only would the traditional law enforcement responsibilities such as violent crimes and trends, property crimes and trends, traffic enforcement, special events protections be theirs, but now international terrorism issues and domestic terrorism issues were front and center, critically important, and a priority issues for state and municipal law enforcement agencies requiring administrations be critically forward thinking with items of concern and to emphasize the need for intelligence gathering with a motivations of prevention of ALL crimes, a core value of law enforcement from its beginnings.

Gaps in information's sharing within the law enforcement community, led the Department of Justice, (DOJ), to push for agencies to adopt intelligences-led policing philosophy. This is to improve how information is gathered, assessed and redistributed by law enforcement, via a central data center.

FPD is one of the police departments leading the nation in this area by going operational with its Real Time Crime Center (RTCC) in 2015. The RTCC is staffed with a Sergeant, with stewardship for retired officers as well as officers on light or limited duty due to injuries, who otherwise would not be on the job. These RTCC operators monitor incoming high priority calls and immediately engage by monitoring video policing cameras in the area, monitoring the locations of responding units and radio communication involving the call, bringing up activity history at the locations, and checking any names and cell phone numbers associated with the event. All pertinent information can be relayed to responding officers via radio or computer before the unit arrives. This makes for much better informed officers who are tasked with bringing immediate control to an otherwise out of control situation. With more information, better decisions are made, making everyone, the officer, the involved party, and the witnesses much safer and allowing for a better outcome.

FPD Chief Dyer stated: "It's a difficult time for policing. Officers are expected to know the unknown and see the unseen. The RTCC center is designed to provide information and allow for more informed decisions." OIR is supportive of innovative programs that address existing crime problems and are in compliance with the myriad of issues surrounding civil rights/privacy and this program, the intelligence-led policing model using a Real Time Crime Center, certainly seems aware of those issues. However, OIR recognizes the sensitivities and nature of intelligence gathering.

Law enforcement in its past has generally been reactive; it essentially takes place after the commission of a criminal offence. Police officers are results-oriented, in the sense that they seek prosecutions of wrong-doers. Officers work in a "closed" system of limits defined by law, and courts. Police construct a chain of evidence that is gathered and used to support criminal convictions in trials where witnesses testify and evidence is presented. Trials are public events and receive publicity, which brings accountability from the public for law enforcement.

However, intelligence work is by contrast, preventive and information oriented. At its best, it occurs before violent events occur. OIR believes that in order to equip FPD officers with ALL necessary tools to keep citizens safe, allowing for officers to be informed during the most stressful and dangerous events, the RTCC center is a must. Officers assigned to intelligence work have a much less clearly defined role versus officers assigned to other types of duties. Intelligence work is best when done in a highly centralized management structure with proper internal oversight. The RTCC provides this kind of structure and accountability. OIR commends FPD's forward thinking in funding, prioritizing and implementing safe guards with a detailed policy governing the gathering and use of intelligence information.

OIR highlights, by topic, of only the areas covered by FPDs policy:

- Privacy of information
- Use of information
- Access of information
- Audits of information (Officer of Independent Review and FPD internal audits).
- Training of personnel

OIR's review found the policy very detailed, professional, and meeting all the standards of law. OIR recommends that FPD should draft and implement a section of policy governing how information can/will be released to other policy units, i.e. Detective Division, for discovery purposes for formal criminal proceedings.

OIR is supportive of the intelligence-led policy model but is cautioning FPD that abuses of similar programs have occurred elsewhere. The strategies which are critical for today's police departments to gain intelligence on criminals and illegal activity are badly needed but must be adequately supervised. Software tools have been developed to organize, disseminate, and collaborate on criminal intelligence in an "evidence based" manner versus an ideological based manner. It is a must in managing intelligence-led policing strategies to have FPD collaborate with community partner on policy matters. This cannot be overstated. As the community in support of FPD's policy will enable them to combat crime and increase security whether locally, statewide or nationally.

Richard Rasmussen and Mark Scharman
Police Auditors

**OFFICE OF INDEPENDENT REVIEW
CITY OF FRESNO
QUARTERLY REPORT
FOURTH QUARTER 2016
October 1, 2016 – December 31, 2016
Report Issued January 30, 2017**

Glossary

| | |
|-----------------|--|
| Unfounded | The reported incident did not occur. |
| Exonerated | The employee's actions were reasonable under the circumstances. |
| Not Sustained | There is insufficient evidence to support a conclusion as to whether or not the employee violated policy. |
| Sustained | The employee's action(s) are in violation of the policy or procedure of the Police department. |
| AU | The case has been audited by the Office of Independent Review |
| AD | The Office of Independent Review has declined to review the case due to the subject; for example an interdepartmental complaint or a case where the OIR cannot add value to the investigation. |
| Pending | The case is still in the process of being investigated |
| "S" | "S" defines the Subject Officer, when there are multiple officers, the letter "S" is followed by a number (S, S1, S2). |
| Blue Category | Firearm Discharge |
| Yellow Category | Unreasonable Use of Force |
| Green Category | Vehicle Accident |

**The following cases were pending in the previous 2016, 2nd quarter.
The pending incidents are in the process of formal IA investigations.
Once the investigations are completed they will be sent to the OIR for review.**

| IA PRO CASE # | DATE ASSIGNED | USE OF FORCE | FPD FINDING | OIR DISPOSITION | STATUS | SUMMARY |
|------------------|------------------|-----------------|-------------------------|-------------------------|--------|--|
| 16-0029 | 04/11/2016 | Yes | (S,S1) Within Policy | (S,S1) Within Policy | AU | (S,S1) Officer Involved Shooting |
| 16-0051 | 06/27/2016 | Yes | Sustained | Not Within Policy | AU | (S,S1) Officer Involved Shooting |

**The following cases were pending in the previous 2016, 3rd quarter.
The pending incidents are in the process of formal IA investigations.
Once the investigations are completed they will be sent to the OIR for review.**

| IA PRO CASE # | DATE ASSIGNED | USE OF FORCE | FPD FINDING | OIR DISPOSITION | STATUS | SUMMARY |
|------------------|------------------|-----------------|--|--------------------|---------|--|
| 16-0057 | 07/07/2016 | No | Unfounded | Unfounded | AU | Racial/Bias Based on Profiling |
| 16-0061 | 07/29/2016 | No | Exonerated, Exonerated, Not Sustained | Pending | Pending | Abuse of Authority, Integrity, Discretion |

| <p>The following cases were pending in the previous 2016, 3rd quarter. The pending incidents are in the process of formal IA investigations. Once the investigations are completed they will be sent to the OIR for review.</p> | | | | | | |
|--|------------------|-----------------|---|-------------------------|----------|--|
| IA PRO CASE # | DATE ASSIGNED | USE OF FORCE | FPD FINDING | OIR DISPOSITION | STATUS | SUMMARY |
| 16-0064 | 08/03/2016 | No | Exonerated | Exonerated | AU | Unreasonable Force |
| 16-0065 | 08/03/2016 | No | (S,S1) Exonerated; (S2,S3,S4) Unfounded | Pending | P ending | (S,S1,S2,S3,S4) Body Camera Issues, Criminal Acts/Failure to Obey All Laws |
| 16-0066 | 08/17/2016 | Yes | Pending | Pending | Pending | (S,S1,S2) In Custody Death |
| 16-0067 | 08/19/2016 | No | (S,S1) Exonerated | (S,S1) Exonerated | AU | (S,S1) Unreasonable Force |
| 16-0068 | 08/19/2016 | No | (S,S1,S2) Exonerated | (S,S1,S2) Exonerated | AU | (S,S1,S2) Unreasonable Force |
| 16-0070 | 08/22/2016 | Yes | Within Policy | Within Policy | AU | Officer Involved in Shooting |
| 16-0072 | 08/25/2016 | No | Exonerated, Sustained | Pending | Pending | Unreasonable Force |
| 16-0073 | 08/25/2016 | No | (S,S1,S4) Unfounded (S2,S3,S5,S 6) No Sustained | AD | AD | (S, S1, S2, S3, S4, S5, S6) Criminal Acts/ Failure to Obey All Laws, Discourteous |
| 16-0074 | 09/12/2016 | No | Pending | AD | Pending | Vehicle Collision |
| 16-0075 | 09/12/2016 | No | Pending | AD | AD | Sexual Harassment |
| 16-0078 | 09/15/2016 | No | (S) Exonerated, Unfounded; (S1) Unfounded, Unfounded | (S,S1) Exonerated | AU | (S,S1) Unreasonable Force, Arrest Authority/Proced ures |

The following cases did have or are in the process of formal IA investigations. Each of these cases occurred during the 2016, 4th quarter. Once the investigation is completed it is sent to the OIR for review

| IA PRO CASE # | DATE ASSIGNED | USE OF FORCE | FPD FINDING | OIR DISPOSITION | STATUS | SUMMARY |
|--------------------------|--------------------------|-------------------------|--|----------------------------|---------------|--|
| 16-0079 | 10/22/2016 | No | Sustained | AD | AD | Discretion |
| 16-0080 | 10/04/2016 | No | (S) Unfounded (S1) Unfounded, Sustained (S2), Unfounded, Exonerated (S3), Unfounded, Sustained | AD | AD | (S,S1,S2,S3) Criminal Acts/Failure to Obey All Laws, Body Camera Issues |
| 16-0081 | 10/05/2016 | No | Pending | AD | AD | (S,S1) Prisoner's Property – Lost/damaged/ Returned of |
| 16-0082 | 10/10/2016 | Yes | Pending | Pending | Pending | Officer Involved In Shooting – Person |
| 16-0083 | 10/22/2016 | No | (S,S1) Unfounded | AD | AD | (S,S1) Tow/Impound Issues |
| 16-0084 | 10/22/2016 | No | Sustained, Not Sustained | AD | AD | Department Property- Care/Usage/Lost /Damaged, Discretion |
| 16-0085 | 11/18/2016 | No | Sustained | AD | AD | (S,S1,S2) Search/Seizure Issues |
| 16-0086 | 11/22/2016 | No | (S,S1,S2) Sustained | AD | AD | (S,S1,S2) Search/Seizure Issues |
| 16-0087 | 12/01/2016 | Yes | Within Policy | AD | Pending | Officer Involved in Shooting- Dog |
| 16-0088 | 12/08/2016 | No | Pending | Pending | Pending | Racial/Bias Based Profiling |
| 16-0089 | 12/08/2016 | No | Pending | AD | AD | (S,S1) Performance |
| 16-0090 | 12/29/2016 | No | Pending | AD | AD | Performance |

AUDIT REPORTS PERFORMED IN THE FOURTH QUARTER OF 2016

C16-0057

Allegation: Racial/Bias Based on Profiling

Audit Findings Unfounded
FPD Findings Unfounded

C16-0051

Allegation: Officer Involved Shooting

Audit Findings Not Within Policy
FPD Findings Sustained

C16-0064

Allegation: Unreasonable Force

Audit Findings Exonerated
FPD Findings Exonerated

C16-0029

Allegation: Officer Involved Shooting

Audit Findings Within Policy
FPD Findings Within Policy

C16-0067

Allegation: Unreasonable Force

Audit Findings Exonerated
FPD Findings Exonerated

C16-0068

Allegation: Unreasonable Force

Audit Findings Exonerated
FPD Findings Exonerated

C16-0078

Allegation: Unreasonable Force, Arrest Authority/Procedures

Audit Findings Exonerated
FPD Findings Exonerated and Unfounded

**FRESNO POLICE DEPARTMENT
INTERNAL AFFAIRS BUREAU
2016 4th QUARTER INFORMAL COMPLAINTS**

The following complaints were reviewed and it was determined they did not warrant a full Internal Affairs investigation.

| TYPE | INFORMAL COMPLAINT # | DATE CLOSED | FINDINGS | ALLEGATIONS |
|------|----------------------|-------------|---------------|------------------------------------|
| IC | 16-0134 | 10/13/16 | UNFOUNDED | GENERAL CALL HANDLING |
| IC | 16-0135 | 10/13/16 | NOT SUSTAINED | GENERAL RESPONSIBILITIES |
| IC | 16-0136 | 10/13/16 | UNFOUNDED | DISCOURTEOUS |
| IC | 16-0137 | 10/13/16 | UNFOUNDED | PERFORMANCE |
| IC | 16-0138 | 10/13/16 | UNFOUNDED | INFORMATION RELEASES |
| IC | 16-0139 | 10/13/16 | UNFOUNDED | GENERAL RESPONSIBILITIES |
| IC | 16-0140 | 11/16/16 | EXONERATED | GENERAL CALL HANDLING |
| IC | 16-0141 | 11/16/16 | EXONERATED | ARREST AUTHORITY/PROCEDURES |
| IC | 16-0142 | 11/16/16 | EXONERATED | INVESTIGATION HANDLING |
| | | | | FAILURE TO PROVIDE BADGE # OR INFO |
| IC | 16-0143 | 11/16/16 | NOT SUSTAINED | SEARCH/SEIZURE ISSUES |
| | | | | REPORT PREPARATION |
| IC | 16-0144 | 11/29/16 | NOT SUSTAINED | GENERAL RESPONSIBILITIES |
| IC | 16-0145 | 11/29/16 | UNFOUNDED | GENERAL RESPONSIBILITIES |
| IC | 16-0146 | 11/29/16 | EXONERATED | UNREASONABLE FORCE |
| IC | 16-0147 | 11/29/16 | EXONERATED | GENERAL CALL HANDLING |
| IC | 16-0148 | 11/29/16 | UNFOUNDED | GENERAL CALL HANDLING |

| | | | | |
|----|---------|----------|---------------|------------------------------------|
| IC | 16-0149 | 11/29/16 | UNFOUNDED | DISCOURTEOUS |
| IC | 16-0150 | 11/29/16 | UNFOUNDED | PROPERTY LOST/DAMAGED |
| IC | 16-0151 | 11/29/16 | EXONERATED | GENERAL CALL HANDLING |
| IC | 16-0152 | 11/29/16 | UNFOUNDED | REPORT PREPARATION |
| IC | 16-0153 | 12/13/16 | UNFOUNDED | DISCOURTEOUS |
| IC | 16-0154 | 12/13/16 | UNFOUNDED | GENERAL RESPONSIBILITIES |
| IC | 16-0155 | 12/13/16 | SUSTAINED | INVESTIGATION HANDLING |
| IC | 16-0156 | 12/13/16 | SUSTAINED | DISCOURTEOUS |
| IC | 16-0157 | 12/13/16 | NOT SUSTAINED | FAILURE TO PROVIDE BADGE # OR INFO |
| | | | | GENERAL RESPONSIBILITIES |
| | | | | DISCOURTEOUS |
| IC | 16-0158 | 12/13/16 | UNFOUNDED | FAILURE TO OBEY ALL LAWS |
| IC | 16-0159 | 12/26/16 | UNFOUNDED | DISCOURTEOUS |
| IC | 16-0160 | 12/29/16 | EXONERATED | GENERAL RESPONSIBILITIES |
| IC | 16-0161 | 12/30/16 | EXONERATED | GENERAL CALL HANDLING |
| IC | 16-0162 | 12/30/16 | UNFOUNDED | UNREASONABLE FORCE |
| IC | 16-0163 | 12/30/16 | EXONERATED | INVESTIGATION HANDLING |
| IC | 16-0164 | 12/30/16 | NOT SUSTAINED | DISCOURTEOUS |

2016 QUARTERLY REPORT FOR AUDITOR

| TYPE OF INCIDENT | 1/1/16 TO 3/31/16 | 4/1/16 TO 6/30/16 | 7/1/16 TO 9/30/16 | 10/1/16 TO 12/31/16 | TOTALS |
|-----------------------------|----------------------------------|----------------------------------|----------------------------------|------------------------------------|---------------|
| ACCIDENTAL DISCHARGE | 0 | 0 | 0 | 0 | 0 |
| OIS - ANIMAL | 1 | 1 | 0 | 2 | 4 |
| OIS - PERSON | 4 | 2 | 1 | 1 | 8 |
| VEHICLE COLLISIONS | 35 | 26 | 22 | 27 | 110 |
| VEHICLE PURSUITS | 26 | 22 | 24 | 18 | 90 |