



# **OFFICE OF INDEPENDENT REVIEW**

**REPORT FOR THE PERIOD OF  
July 1, 2023, to September 30, 2023**

**John A. Gliatta  
Independent Reviewer**

**Arlene Medina  
Community Coordinator**

## ABOUT THE OFFICE OF INDEPENDENT REVIEW

The Office of Independent Review (OIR) works to strengthen community trust in the Fresno Police Department (FPD) by providing a neutral, third-party review of police policies, 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.*

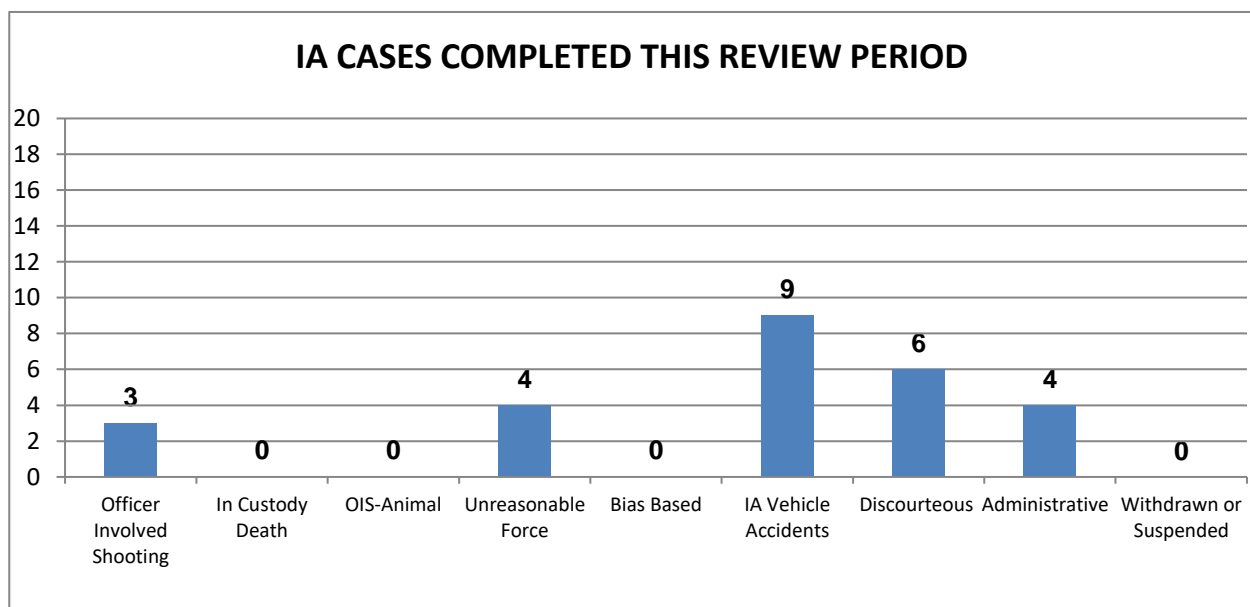
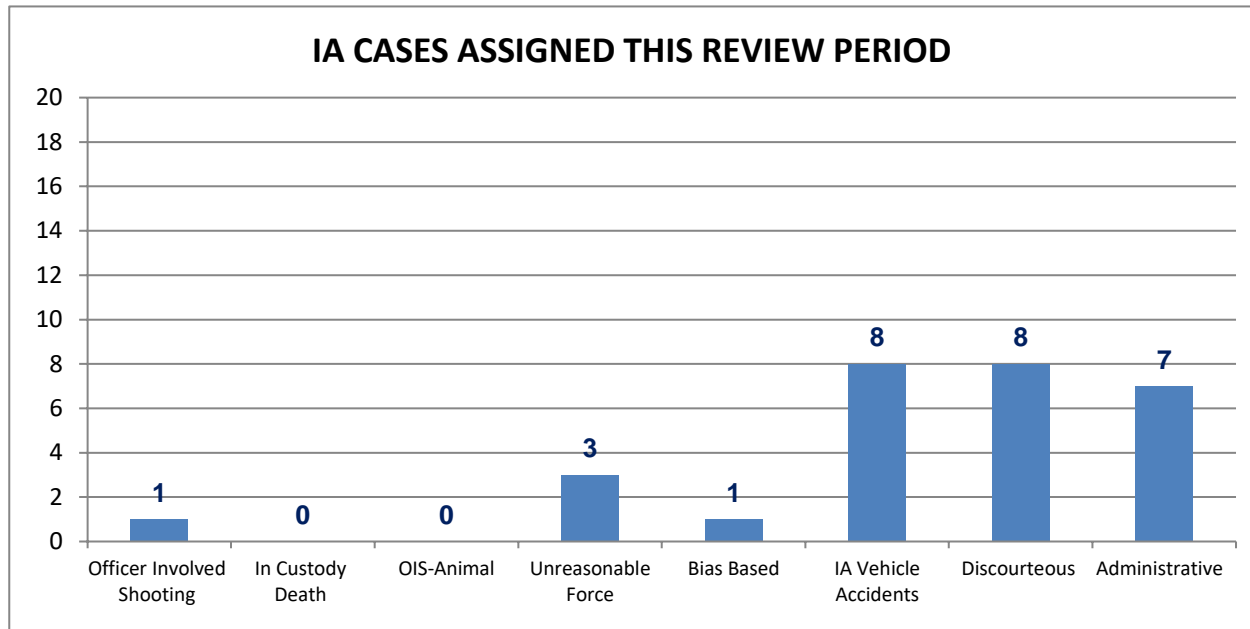
## OIR REPORT FORMAT

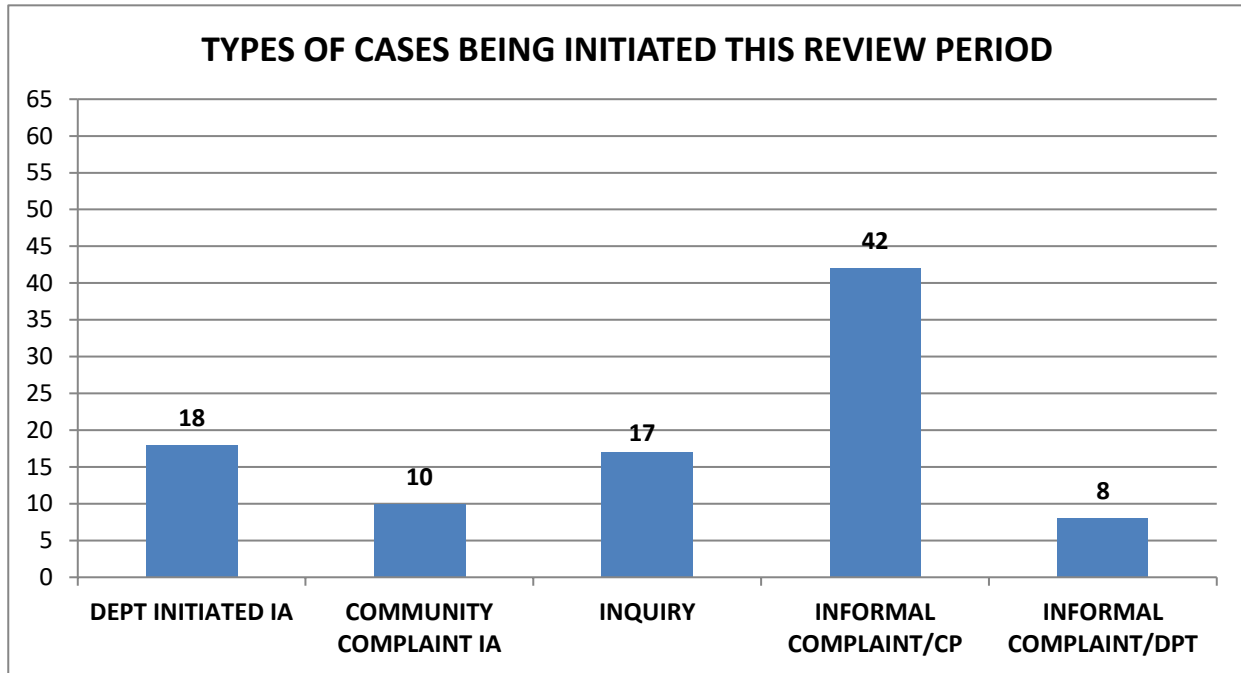
The OIR adheres to the following guidelines, format, and definitions in all quarterly reports:

- 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 the allegation was Sustained will not be 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 suggested by the OIR.
- All FPD responses to OIR recommendations, including 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. The response received from the FPD will be included without changes or edits.
- 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. However, as of 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.
- Depending on the policy they were found to have violated, officers/employees may be offered a Last Chance Agreement (LCA) in lieu of proposed termination. The individual must adhere to strict guidelines for the duration of their employment with the City of Fresno or be subjected to termination as outlined in their agreed upon and signed LCA.

## REVIEW OF INTERNAL AFFAIRS INVESTIGATIONS

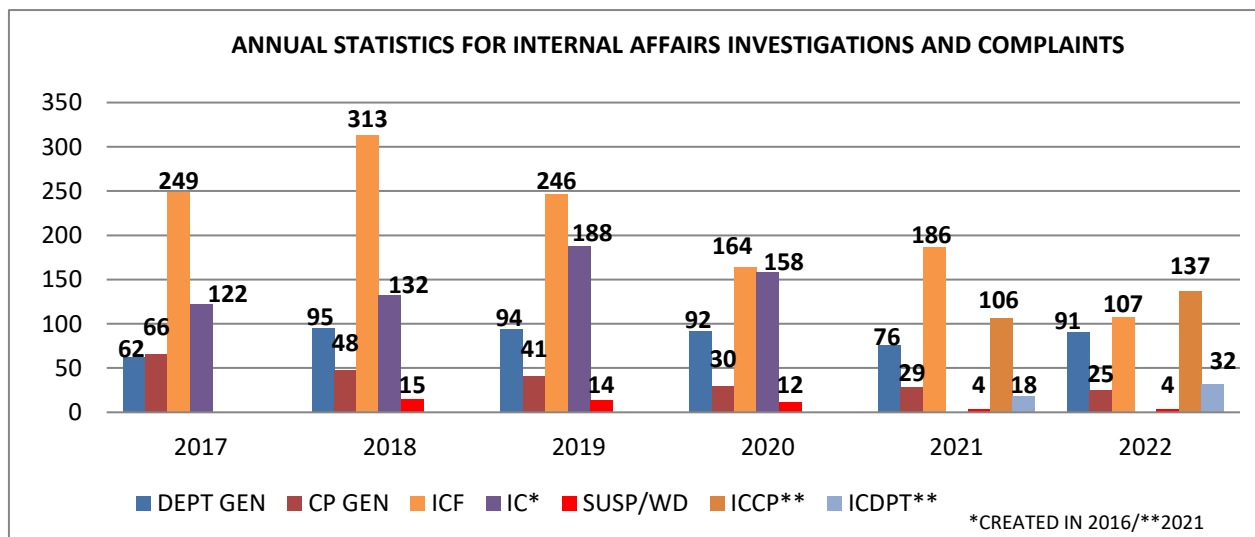
The following charts list the number and types of IA cases assigned and closed during the third quarter of 2023. For classification purposes, Discourteous Treatment also includes cases in which the officer was accused of conduct unbecoming of a police officer. The classification of Administrative Matters 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).



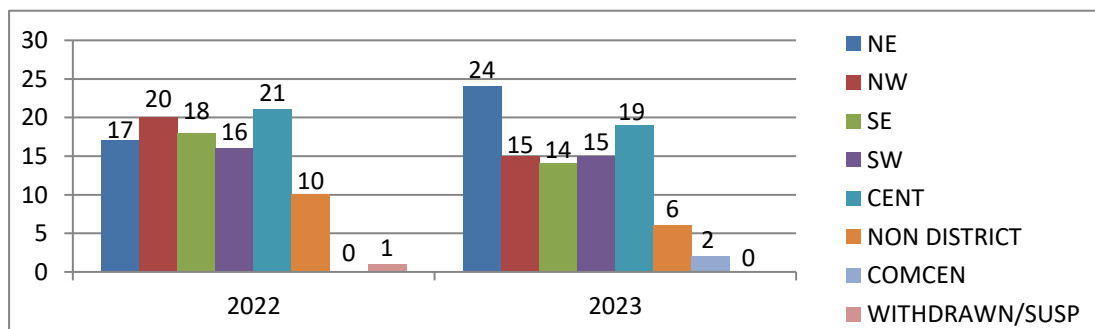
## COMPLAINTS OR INQUIRIES ASSIGNED BY POLICING DISTRICT

The following charts reflect the complaints or inquiries assigned in each of the five policing districts for the third quarter of 2023, and a quarterly comparison between 2022 and 2023. 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 2023									
ASSIGNED	NE	NW	SE	SW	CENT	NON-DISTRICT	COMCEN	WITHDRAWN/SUSPENDED	TOTAL
IA CASES	9	6	2	5	5	1	0	0	28
INFORMAL COMPLAINTS-CP	12	6	9	6	6	3	0	0	42
INFORMAL COMPLAINTS-DPT	0	1	0	1	4	1	1	0	8
INQUIRIES	3	2	3	3	4	1	1	0	17
2ND QTR TOTALS	24	15	14	15	19	6	2	0	95

## QUARTERLY COMPARISONS OF MATTERS BY DISTRICT

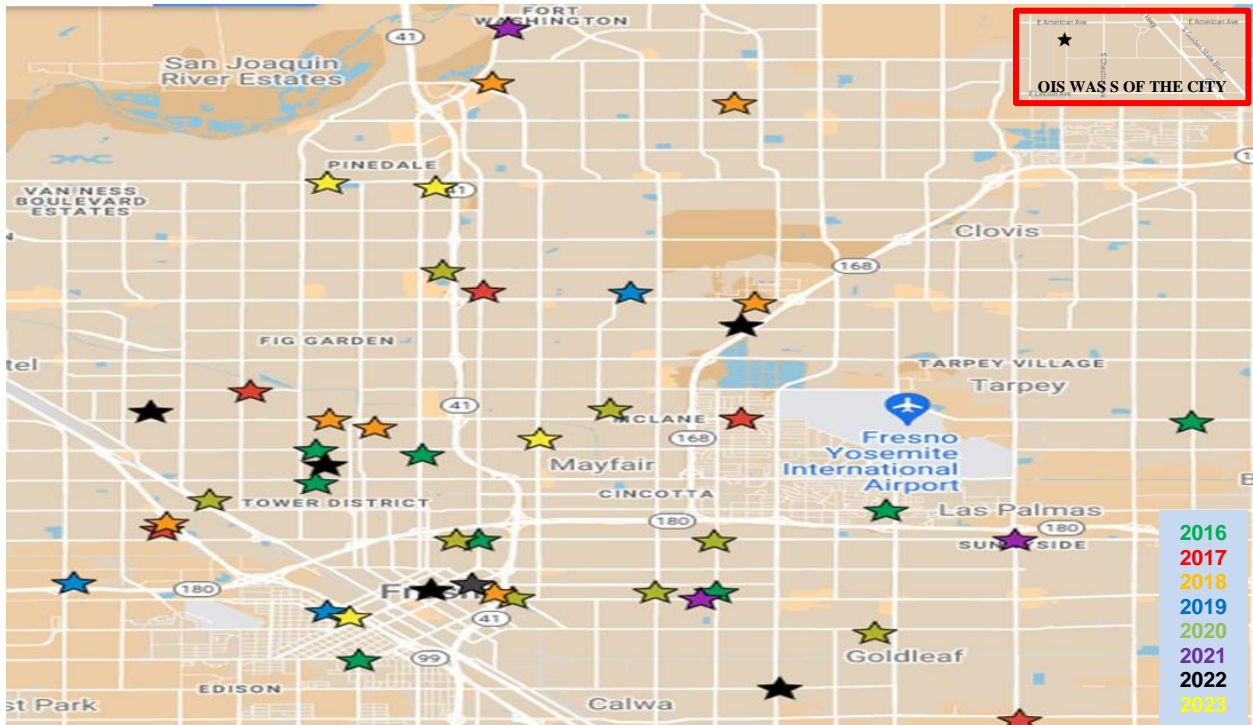
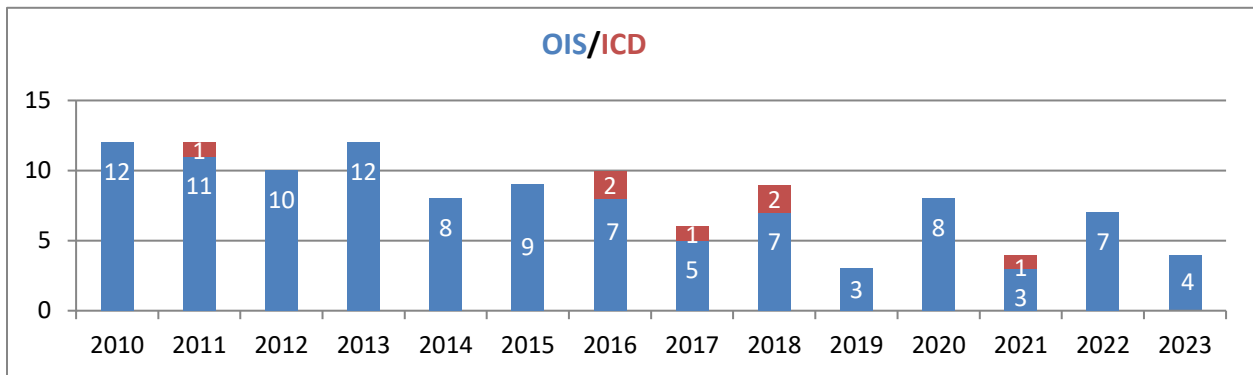




## EXPLANATION OF TERMS AND ABBREVIATIONS

UNF	<b>UNFOUNDED:</b> 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	<b>EXONERATED:</b> 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	<b>NOT SUSTAINED:</b> THE INVESTIGATION FAILED TO DISCLOSE SUFFICIENT EVIDENCE TO CLEARLY PROVE OR DISPROVE THE ALLEGATION WITHIN THE COMPLAINT
SUS	<b>SUSTAINED:</b> THE INVESTIGATION DISCLOSED SUFFICIENT EVIDENCE TO PROVE THE TRUTH OF THE ALLEGATION IN THE COMPLAINT BY THE PREPONDERANCE OF THE EVIDENCE.
P	<b>PENDING:</b> THE INVESTIGATION HAS NOT BEEN COMPLETED
O	<b>OFFICER:</b> IF FOLLOWED BY A 1, 2, 3, ETC., INDICATES MORE THAN ONE OFFICER WAS BEING INVESTIGATED
RAI	<b>REQUESTED ADDITIONAL INFORMATION</b> WAS MADE BY OIR BEFORE A DECISION COULD BE MADE
NR	<b>NOT REVIEWED:</b> OIR DID NOT REVIEW THE CASE DUE TO FPD FINDING OF SUSTAINED OR THE CASE WAS SUSPENDED
CP	<b>COMPLAINING PARTY:</b> THE PERSON WHO FILED THE COMPLAINT
SUSP	<b>SUSPENDED:</b> THE OFFICER/EMPLOYEE RESIGNED OR RETIRED PRIOR TO THE CONCLUSION OF THE INVESTIGATION
BWC	<b>BODY WORN CAMERAS:</b> Device affixed to uniforms which records audio and video of interaction with public
<b>DATE ASSIGNED IS THE DATE THE CASE WAS ASSIGNED TO AN IA INVESTIGATOR, NOT THE ACTUAL DATE OF OCCURRENCE</b>	

### OFFICER INVOLVED SHOOTINGS (OIS) & IN-CUSTODY DEATHS (ICD) 2010 THROUGH 2023 (OIS 2016 TO 2023 MAPPED BELOW)



## COMPLETED AND PENDING OFFICER INVOLVED SHOOTING INVESTIGATIONS

During the review period one new OIS investigation was initiated and three OIS investigations were completed. In each of the completed OIS investigations the FPD IA determined the officers were within policy when using deadly force. Following a thorough review of each case this office also determined the officers were within policy. OIR summaries of the OIS cases appear following the chart below.

OFFICER INVOLVED SHOOTING (OIS) AND IN CUSTODY DEATHS (ICD)					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
22-0020	3/29/2022	7/17/2023	W/IN POL	W/IN POL	O SHOT SUBJECT WHILE BEING ASSAULTED IN FPD ANNEX OFFICE, FATAL
22-0033	5/19/2022	P			O SHOT SUBJECT WHO HAD POINTED A REPLICA WEAPON AT RESPONDING Os, FATAL
22-0039	6/18/2022	8/7/2023	W/IN POL	W/IN POL	Os SHOT SUBJECT WHO REFUSED TO DROP WEAPON, FATAL
22-0119	12/23/2022	8/4/2023	W/IN POL	W/IN POL	SUBJECT WAS SHOT AFTER REFUSING TO COMPLY AND DROVE TOWARDS THE O, NON-FATAL
23-0009	3/4/2023	P			SUBJECT SHOT AT AND HIT O AFTER A SHORT PURSUIT, Os RETURNED FIRE, FATAL
23-0012	3/18/2023	P			Os SHOT SUBJECT WHO REFUSED COMMANDS AND ADVANCED ON Os WHILE HOLDING A KNIFE, FATAL
23-0017	4/3/2023	P			SUBJECT SHOT RELATIVE AND REFUSED TO DROP WEAPON WHEN ARRIVING OFFICERS ISSUED COMMANDS, NON-FATAL
23-0050	7/30/2023	P			O SHOT SUBJECT WHO REFUSED COMMANDS AND PRODUCED A PELLET GUN, NON-FATAL

Beginning with this quarterly report the reviews of OIS matters will include a hyperlink to the respective Critical Incident Video if one was released. By including the link the reader will be able to view pertinent information firsthand, which may include BWC recordings. This will eliminate the need to include still frames of the BWC recordings which were previously part of the reviews. This should provide the reader with a better understanding of what led up to the OIS. The intent of including the link to the Critical Incident Video is to provide as much transparency as possible, which is a primary goal of this office.

**IA2022-0020:** On March 29, 2022, at approximately 11:42 AM, an FPD detective was seated in his office in the City Hall Annex, 2326 Fresno Street. The detective worked alone and only engaged with the public when they had a scheduled appointment. As the detective was working on his computer his office door suddenly opened. An unknown male, later identified as Joseph



Lee Roy, entered the office. The detective had not scheduled a meeting with anyone but asked if he could help him. Roy did not respond and continued into the office. Roy continued to walk around the side of the desk and approached the detective. At this point, the detective pushed away from his desk as Roy began to strike him in the head. The detective tried to block the punches to his head and asked several times, “*What are you doing?*” The detective also yelled that he was a police officer as he began to feel what he described as being stabbed with a sharp object. The detective then began feeling blood flowing down his face and he believed Roy was trying to kill him. The detective withdrew his department approved weapon and fired one round. Roy immediately stopped striking the detective and fell to the ground.

Other FPD officers from the adjacent office heard the commotion and the shot and proceeded to the detective’s office. Upon opening the office door, they discovered the detective’s desk had been moved and was partially blocking the doorway. Once they were able to gain access into the office the detective was escorted out and officers began administering medical aid to Roy. EMS was immediately requested and responded to the scene. Unfortunately, Roy was declared deceased at the scene and the detective was transported by ambulance to the hospital. The detective was treated for lacerations to the side of the head, a concussion, and a puncture wound to his head which required suturing.

Follow-up investigative interviews of several family members determined the subject was experiencing mental health episodes for several days prior to the incident. The subject was in the area of the City Hall Annex to attend a court hearing. The detective’s assignment did not involve the apprehension of wanted individuals or responding to calls for service. Therefore, he was not issued a body worn camera or less than lethal options, such as a taser. In this incident when the subject, who outweighed the detective by more than 200 pounds, was actively inflicting great bodily harm on him a less than lethal application would not have been an option.

The FPD released a [Critical Incident Video](#) which provided a succinct summary of the officer involved shooting. The embedded hyperlink provides an additional level of transparency for the community. The officers who responded to the detective’s office were equipped with body worn cameras and a portion of the recordings are included in the above video.

After a thorough review of the evidence, which included but was not limited to the criminal investigation, internal affairs investigation, and witness statements, and personally responding to the scene of the shooting, the detective was **within policy** ([Policy 300](#)) when he used deadly force by discharging his firearm to defend himself.

**IA2022-0039:** On June 18, 2022, at approximately 10:30 PM, the Fresno Police Department Communication Center received a 9-1-1 call from a male who identified himself only as “Anthony.” The caller stated he observed a Hispanic male wearing a black shirt and denim shorts brandish a firearm at Vinland Park. The caller further advised the male was last seen by the restrooms at the park. When asked for additional information by the 9-1-1 call taker the caller advised he was no longer in the area of the park.

The first two Officers, #1 and #2, were assigned as a double unit arrived on scene four minutes later. One minute later Officer #3, who was a K-9 Officer, arrived on scene. The three officers

began searching the park attempting to locate the individual the caller had described. Within the first minute the officers observed a male in dark clothing seated on a nearby park bench. Officer #1 began giving commands to the subject, later identified as Gonzalo Aceituno, to come to the officers.

Aceituno did not comply with the commands given by Officer #1 and began walking away from the officers towards an open grass area of the park. Officer #1 observed a gun Aceituno was holding in his right hand. Officer #1 advised dispatch they had located a subject with a gun in the park. Officer #1 repeatedly yelled for Aceituno to drop the gun. Aceituno continued to walk away from the officers and suddenly turned around and began walking towards the officers. Officer #1 continued to demand Aceituno drop the gun, but he would not comply. Aceituno then raised the gun and pointed it toward Officer #1. At that point Officer #1 and #2 fired their department issued handguns and Aceituno fell to the ground.

The officers approached Aceituno and utilized the K-9 to separate him from the gun he had been holding as it was still near his right hand. Once Aceituno was moved away from the gun officers began administering first aid until paramedics arrived. Unfortunately, Aceituno was later pronounced deceased. It was later determined the person who called 9-1-1 was in fact Aceituno, who called describing himself to the call taker.

Officers #1 and #2 displayed restraint by not discharging their weapons when Aceituno was observed holding a handgun while refusing Officer #1's commands. It is difficult to ascertain the thought process of Aceituno, however, when the officers did not fire as he walked away he turned and walked towards them while raising his weapon. By walking towards the officers and raising his weapon he left no other option for the officers but to discharge their weapons to protect themselves and their fellow officers. The FPD released a [Critical Incident Video](#) following the OIS which includes the BWC recordings to promote transparency.

Therefore, the officers were **within policy** ([Policy 300](#)) when they used deadly force in response to the actions of Aceituno.

**IA2022-0119:** On Friday, December 23, 2022, at approximately 12:48 AM, the Fresno Police Department received a 9-1-1 call for a domestic disturbance between a male and a female at the 7-11 convenience store, 2397 South Chestnut Avenue. The caller stated the female was presently attempting to hide in the store from the male and she showed signs of being physically assaulted. The caller described the vehicle and the male who was driving in the area attempting to locate the female.

Upon the arrival of the first two Officers, #1 and #2, they contacted the male who was later identified as Michael Alvarez. The Officers noticed Alvarez drove his vehicle over the curb stop in front of the store. Alvarez refused to comply with the commands given by the Officers and placed his car in reverse. Alvarez attempted to flee causing his vehicle to strike Officer #1 and a marked FPD patrol car, occupied by Officer #3, who had arrived and parked behind Alvarez's vehicle. Officer #3 exited his patrol car and announced several times for Alvarez to stop or he would be shot.

Alvarez refused to comply and drove in reverse again striking the patrol car and a civilian's car parked in the next parking stall. At this time Officer #3, who was standing beside his vehicle which was just struck by Alvarez's vehicle for the second time, discharged his department issued firearm. Alvarez was hit one-time permitting Officers to approach his vehicle in order to remove him and begin administering first aid until EMS arrived on scene.

The Fresno County District Attorney's Office completed their review and advised the actions of Officer #3 did not involve any criminal conduct. Alvarez survived and was subsequently charged with a violation of Penal Code section 273.5, Domestic Violence, three counts of violating Penal Code 245(c), Assault on a Peace Officer, and one count of Penal Code 245 (a)(1), assault on the Domestic Violence Victim.

The FPD released a [Critical Incident Video](#) shortly after the shooting and prior to the completion of the investigation by the various entities, including this office. The embedded hyperlink provides a thorough overview of the incident to include the BWC recordings which show the Officer's actions referenced in this review.

In summary, the actions of Alvarez caused the Officers to be in fear for their safety and the safety of the customers of the business, as customers could be seen in the BWC recordings. Therefore, the use of deadly force by Officer #3 was **within policy** ([Policy 300](#)).

## STATUS OF INTERNAL AFFAIRS INVESTIGATIONS BY CLASSIFICATION

There was one new Bias Based investigation initiated and no cases were completed.

BIAS BASED					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
23-0031	6/5/2023	P			CP ALLEGED: O RACIALLY PROFILED CP, USED UNREASONABLE FORCE, AND IMPROPERLY TOWED VEHICLE
23-0054	8/11/2023	P			CP ALLEGED O STOPPED CP DUE TO RACE

During this period three new Unreasonable Force investigations were initiated, and four cases were completed, which included one of the newly opened cases. In case 22-0058, the officer was determined the use of force policy was violated, along with the policy of being discourteous. The allegations in this case were initiated by the department and not due to a CP alleging unreasonable force, which is an example of the department constantly monitoring the actions of their officers.

In the remaining completed investigations it was determined the accused officers did not violate the use of force policy. However, one officer failed to report the justified and approved application of force to his/her respective supervisor, and another officer was also found to be in violation of the discourteous policy.

UNREASONABLE FORCE					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
22-0058	8/19/2022	8/16/2023	SUS SUS	NR NR	DEPT ALLEGED O USED UNREASONABLE FORCE DEPT ALLEGED O DIRECTED PROFANITY AT SUBJ
22-0074	9/14/2022	P			CP ALLEGED O USED UNREASONABLE FORCE
23-0002	1/5/2023	8/14/2023	EX SUS	EX NR	CP ALLEGED O USED UNREASONABLE FORCE DEPT ALLEGED O FAILED TO REP FORCE USED
23-0018	4/6/2023	8/8/2023	EX SUS	EX NR	DEPT ALLEGED O USED FORCE ON HOMELESS ADV DEPT ALLEGED O WAS DISCOURTEOUS TO PUBLIC
23-0033	6/5/2023	P			CP ALLEGED O USED UNREASONABLE FORCE DEPT ALLEGED O FAILED TO ACTIVATE BWC
23-0048	7/24/2023	8/24/2023	UNF	UNF	CP ALLEGED O USED UNREASONABLE FORCE, WAS DISCOURTEOUS, AND FALSELY ARRESTED THE CP
23-0062	9/11/2023	P			CP ALLEGED Os USED UNREASONABLE FORCE
23-0068	9/28/2023	P			CP ALLEGED O USED UNREASONABLE FORCE

Six case investigations for Discourteous Treatment or Conduct Unbecoming of a Police Officer were completed during the third quarter, and eight new investigations were initiated. This office differed from the FPD's findings for 23-0024.

DISCOURTEOUS TREATMENT OR CONDUCT UNBECOMING OF A POLICE OFFICER					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
22-0042	7/12/2022	P			CP ALLEGES O GAVE CP's PETS TO AN INDIVIDUAL WITHOUT CP's PERMISSION SUBSEQUENT TO ARREST
22-0072	9/12/2022	7/7/2023	SUS	NR	DEPT ALLEGED O WAS ARRESTED FOR DV MATTER
22-0076	9/21/2022	P			DEPT ALLEGED O WAS UNDER THE INFLUENCE OF ALCOHOL WHILE ON DUTY
22-0082	10/7/2022	P			CP ALLEGED O HAD AN ON-DUTY SEXUAL ENCOUNTER WITH FPD NON-SWORN
22-0084	10/10/200 2	7/28/2023	SUS x 2	NR	DEPT ALLEGED Os DID NOT DOCUMENT A DV CASE
22-0106	12/1/2022	P			DEPT ALLEGED O VIOLATED A MISD OR FELONY STATUTE
22-0107	12/1/2022	P			CP ALLEGED O ENGAGED IN SEXUAL CONTACT TO AVOID ISSUING A TRAFFIC CITATION TO CP
22-0108	12/1/2022	P			DEPT ALLEGED O WAS SMOKING ON DUTY, IMPROPERLY DISPOSED OF SUBJ PROPERTY, AND MISSTATED FACTS ON REPORT

DISCOURTEOUS TREATMENT OR CONDUCT UNBECOMING OF A POLICE OFFICER					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
22-0112	12/14/2022	P			DEPT ALLEGED O WAS INVOLVED IN OFF-DUTY DISTURBANCE
23-0005	1/17/2023	P			DEPT ALLEGED O FAILED TO COLLECT EVIDENCE IN A SEXUAL ASSAULT MATTER DEPT ALSO ALLEGED O LEFT SENSITIVE FPD PROPERTY UNATTENDED IN PUBLIC AREA
23-0010	3/10/2023	P			CP ALLEGED O COMMITTED DV WHILE OFF-DUTY
23-0015	3/29/2023	9/21/2023	SUS	NR	CP ALLEGED O PLACED CP'S WALLET AND CELL ON HOOD OF PATROL CAR AND DROVE OFF, LOSING BOTH
23-0023	4/20/2023	P			DEPT ALLEGED O1,O2 & O3 WERE DISCOURTEOUS DEPT ALLEGED O4 & O5 FAILED TO SUPERVISE
23-0024	4/20/2023	9/21/2023	UNF x 3 EX x 3	UNF x 3 EXx1;NSx2	CP ALLEGED Os SEIZED A WEAPON & FAILED TO LIST IT DEPT ALLEGED Os FAILED TO ACTIVATE BWC
23-0025	4/28/2023	8/31/2023	SUS	N	DEPT ALLEGED O WAS UNPROFESSIONAL WHEN INTERACTING WITH ANOTHER AGENCY
23-0032	6/5/2023	P			DEPT ALLEGED O WAS CITED FOR OFF-DUTY DUI AND ALSO FAILED TO NOTIFY SUPERVISOR
23-0043	7/10/2023	P			CP ALLEGED O HAD NO REASON TO HANDCUFF AND DETAIN HER
23-0046	7/18/2023	8/31/2023	UNF	UNF	CP ALLEGED O FAILED TO ACT TO CRIME IN PROGRESS
23-0055	8/15/2023	P			CP ALLEGED Os COMMITTED SEXUAL ASSAULT CP ALLEGED Os USED UNREASONABLE FORCE
23-0056	8/16/2023	P			DEPT ALLEGED O PLACED BOGUS 911 CALLS TO HAVE FPD RESPOND TO EX-GIRLFRIEND'S HOME
23-0058	8/25/2023	P			DEPT ALLEGED Os WERE UNPROFESSIONAL OFF DUTY
23-0059	8/25/2023	P			DEPT ALLEGED O VIOLATED PROFESSIONAL STANDARDS
23-0060	8/31/2023	P			CP ALLEGED O WAS DISCOURTEOUS WHEN O USED BEAM OF FLASHLIGHT TO IMPEDE CP RECORDING
23-0064	9/13/2023	P			DEPT ALLEGED Os MISHANDLED PROPERTY OF CP AFTER ARREST



**IA2023-0024:** The CP had alleged the officers failed to document the seizing of a specific weapon. The CP was detained and then released to mental health officials due to the behavior being displayed by the CP in the presence of the officers. As a result, three weapons from within the residence were turned over by the CP's spouse to the FPD officers for safety purposes. The officers provided the spouse with a formal document listing the weapons provided to the officers and there were no questions raised at the time. The CP was not present when the document was provided to the spouse. Therefore the allegation the officers failed to document a specific weapon retained for safekeeping was unfounded.

Two of the three responding officers were present when the weapons were provided to them. However, the officers had ceased recording the event since the CP had been placed in a responding ambulance. The IA investigator determined the officers violated the BWC policy by not recording the acceptance of the firearms. The finding was later amended to exonerated by an FPD executive staff member. The change was due to the language of the policy being subject to interpretation when accepting arrestee's property. The policy reads as follows:

**450.4 GUIDELINES FOR CAMERA ACTIVATION**

- (i) During the inventory of an arrestee's property. (When safe and feasible efforts should be made to conduct the inventory in the presence of the arrestee)

The two officers believed since the CP was not arrested the collection of the weapons did not require BWC activation. However, IA believed since the CP was initially in the custody of the FPD the collection of the weapons should have been documented by the BWC recordings. The staff member then requested the policy be amended to "reflect anytime items are taken into department custody body cams will be activated." The difference in the interpretation of the policy by IA and executive staff was recognized and accepted by this office. However, since the policy was not clear as it was in place at the time this office is of the opinion the proper finding for the two officers who accepted the property should be **not sustained** as it is defined below:

**NOT SUSTAINED:** THE INVESTIGATION FAILED TO DISCLOSE SUFFICIENT EVIDENCE TO CLEARLY PROVE OR DISPROVE THE ALLEGATION WITHIN THE COMPLAINT

A recommendation is not being made as the department has already requested the language of the policy be amended to clearly define when the BWC should be activated when accepting property.

There were four Administrative of Performance Matters case investigations completed and seven new investigations were initiated during the review period. In all of the completed investigations an officer or employee was found to be in violation of a department policy. Although in one of the completed investigations there were two allegations made. The officers were found to be in violation of one policy while the second allegation was deemed unfounded.

ADMINISTRATIVE OR PERFORMANCE MATTERS					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
22-0057	8/18/2022	9/12/2023	SUS x 2 UNF x 1	NR x 2 UNF x 1	DEPT ALLEGED Os FAILED TO REVIEW REPORTS DEPT ALLEGED O FAILED TO SUPERVISE
22-0101	11/18/2022	P			DEPT WAS INFORMED BY O OF ALLEGATIONS OF OTHER Os VIOLATING POLICIES
22-0105	11/29/2022	P			DEPT ALLEGED O FAILED TO COMPLETE 27 REPORTS
22-0109	12/9/2022	P			DEPT ALLEGED ESD ACCESSED & DISSEMINATED SENSITIVE INFORMATION TO FAMILY
22-0113	12/14/2022	8/16/2023	SUS	NR	DEPT ALLEGED O FAILED TO CONDUCT FOLLOW-UP INVESTIGATION ON SEVERAL FELONY CASES
22-0114	12/14/2022	9/5/2022	SUS	NR	DEPT ALLEGED O SHARED CONFIDENTIAL INFORMATION WITH ANOTHER O
22-0118	12/27/2022	P			DEPT ALLEGED Os VIOLATED PURSUIT POLICY
23-0004	1/14/2023	P			DEPT ALLEGED O MADE FALSE STATEMENT REGARDING AN O INVOLVED VEH ACC
23-0007	2/23/2023	P			DEPT ALLEGED ESD IS MAKING PERSONAL CALLS WHILE ASSIGNED TO THE RADIO
23-0013	3/28/2023	P			Os FAILED TO PROPERLY SEARCH ARRESTEE FOR FIREARM WHICH ARRESTEE LATER DISCARDED
23-0014	3/28/2023	P			DEPT ALLEGED O FAILED TO COMPLETE REPORTS WITHIN ESTABLISHED POLICY TIMELINE
23-0020	4/13/2023	P			DEPT ALLEGED O's COURSE OF ACTION CAUSED OTHER Os SAFETY CONCERNS DEPT ALLEGED O MADE DISPARAGING REMARKS ABOUT OTHER Os
23-0021	4/14/2023	P			DEPT ALLEGED O FAILED TO SECURE PROPERTY OF ARRESTEE
23-0030	6/5/2023	9/12/2023	SUS	NR	DEPT ALLEGED RECRUIT HAD A NEGLIGENT DISCHARGE OF TASER DURING PRE-SHIFT CHECK
23-0044	7/10/2023	P			DEPT ALLEGED O USED DEROGATORY TERM FOR CP
23-0045	7/11/2023	P			DEPT ALLEGED Os WERE INVOLVED IN OUT OF POLICY PURSUIT

ADMINISTRATIVE OR PERFORMANCE MATTERS					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
23-0049	7/25/2023	8/23/2023	SUS	NR	DEPT ALLEGED O1 DISPLAYED A LACK OF DISCRETION WHEN MAKING INAPPROPRIATE COMMENT TO O2
23-0057	8/24/2023	P			CP ALLEGED O SEIZED CELL & IT WAS THEN DESTROYED
23-0065	9/15/2023	P			DEPT ALLEGED RECRUIT HAD A NEGLIGENT HANDGUN DISCHARGE DURING A BLDG SEARCH
23-0066	9/21/2023	P			DEPT ALLEGED Os OR CSO DID NOT REPORT DAMAGE TO PATROL VEHICLE
23-0067	9/28/2023	P			DEPT ALLEGED O DID NOT PROPERLY DOCUMENT SALE OF HIS PERSONAL FIREARM, SEIZED DURING AN ARREST BY OUTSIDE AGENCY OF UNRELATED SUBJECT

Nine vehicle accident investigations were completed during the review period with all nine investigations resulting in sustained findings. Eight new investigations were initiated during the review period and are presently pending.

### IA INVESTIGATION DISCIPLINE RESULTS

The chart on the following page shows the first three quarters of 2023 and the past annual totals for the discipline issued, or option chosen by the officers/employees, who were determined to be in violation of a FPD policy. During this quarter two officers were terminated, one resigned, and one retired in lieu of discipline, although the officer retired prior to the investigation being completed and resulting discipline imposed. In addition, seven were suspended a total of 260 hours, and six were required to attend additional training. It should be noted that an officer/employee may be subject to more than one disciplinary action. As an example, an officer/employee may receive a suspension plus required to attend additional training.

DISCIPLINE ISSUED	2016	2017	2018	2019	2020	2021	2022	2023 (YTD)
TERMINATIONS	7	3	2	8	5	5	6	4
RESIGNED IN LIEU OF	0	1	0	4	8	3	5	1
RETIRED IN LIEU OF	0	0	0	4	3	0	2	3*
DEMOTION	0	0	0	1	0	0	0	1
SUSPENDED	16	17	32	31	52	22	28	31
PAYMENT IN LIEU OF	0	0	0	4	1	0	0	0
FINES	0	0	0	0	0	0	1	0
MEDICAL SEPARATION	NA	NA	NA	3	0	0	0	0
LETTERS OF REPRIMAND	9	10	15	17	15	25	12	18
LAST CHANCE AGREEMENT	N/A	N/A	N/A	N/A	N/A	4	4	1
TOTAL	32	31	49	72	84	59	58	45

\*One officer retired prior to the investigation being completed which recommended a suspension

## WE HAVE MOVED

We recently relocated from the space we had occupied since 2017. We are now located within City Hall, 2600 Fresno Street. Due to space limitations we are no longer able to accept walk-ins and ask you to call beforehand to set up an appointment. Our contact information can be found below.

## SUMMARY

If your group or organization is planning an event this fall and you would like our office to set up an informational booth at your event, please contact us. You can also follow our social media pages to view a few of the recent events we have attended.

Facebook: [Fresno Review](#)

Twitter: [Fresno Review](#)

Instagram: [Fresno Review](#)

There are several ways to contact this office and our policy is to return all correspondence within a 24-hour period except for communications received over the weekend and holidays. 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](mailto:OIR@fresno.gov)

John A. Gliatta  
Independent Reviewer  
Office of Independent Review