



# **OFFICE OF INDEPENDENT REVIEW**

**REPORT FOR THE PERIOD OF  
October 1, 2023, to December 31, 2023**

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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.*

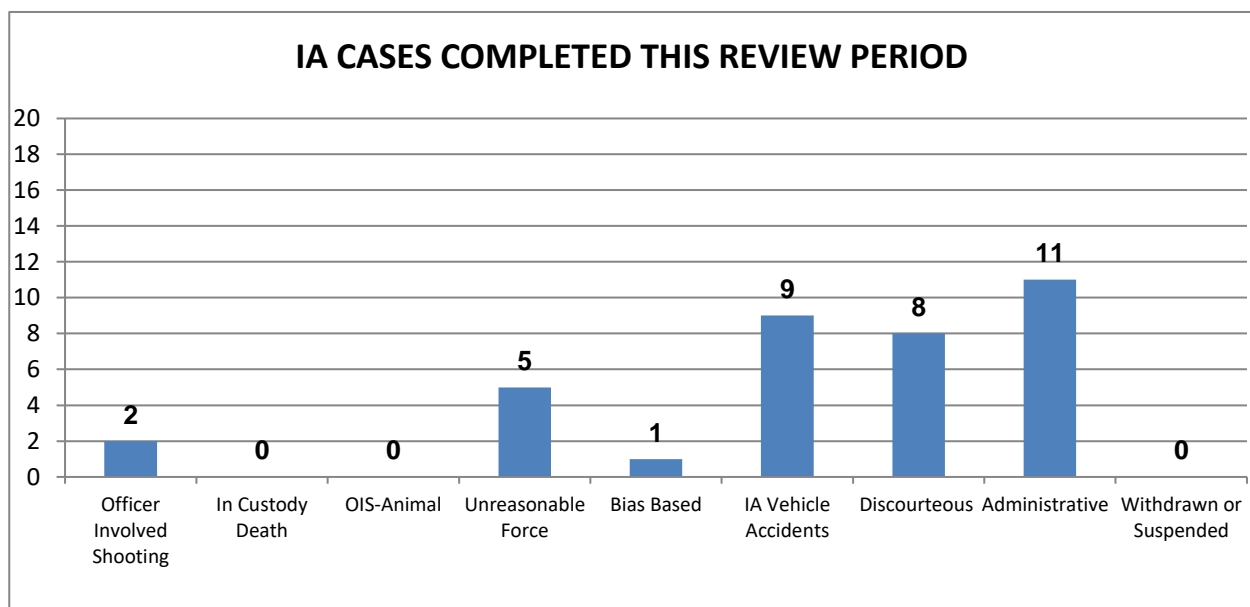
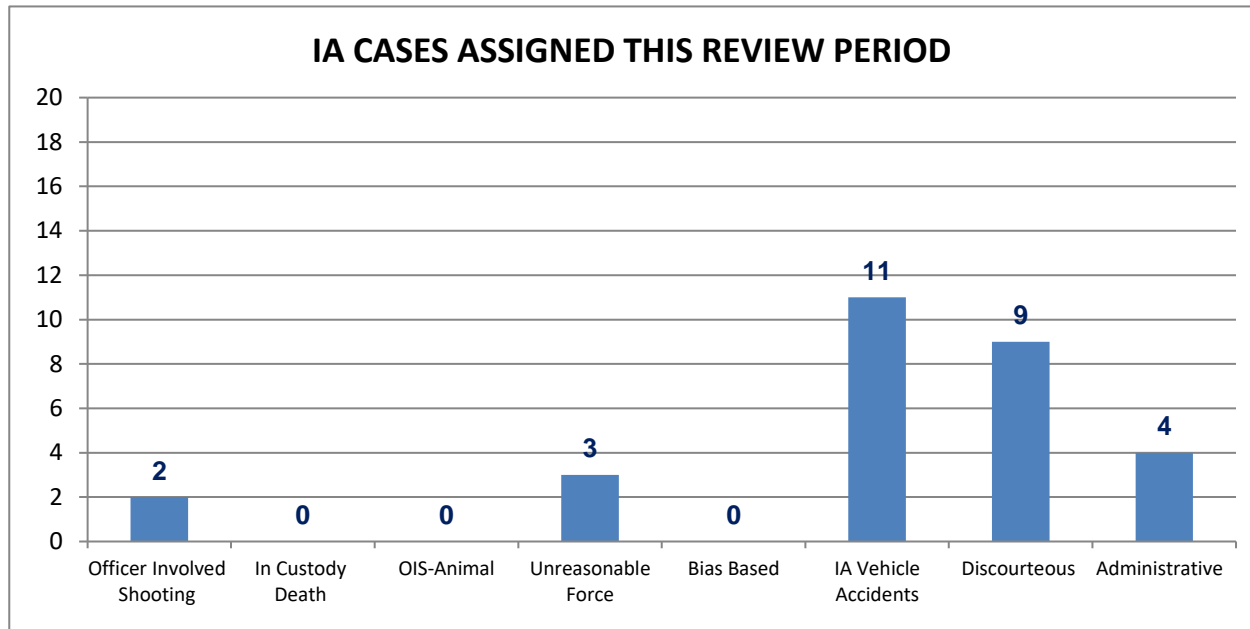
## OIR REPORT FORMAT

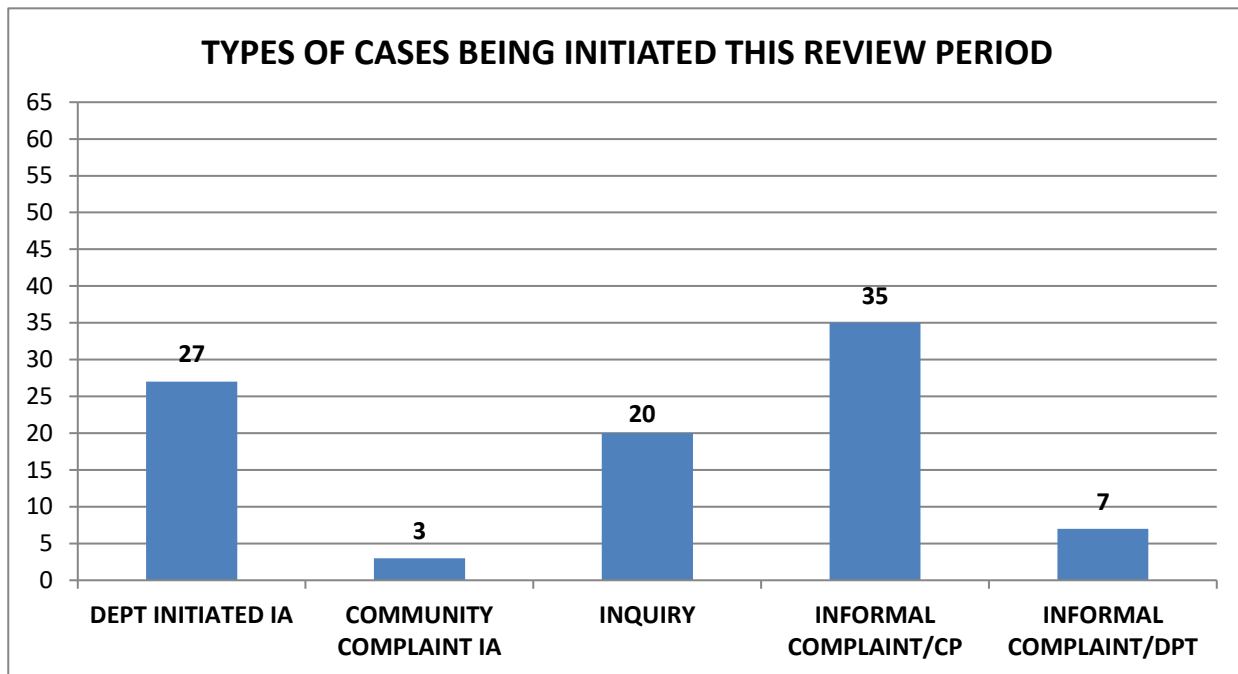
The OIR adheres to the following guidelines, format, and definitions in all quarterly reports:

- 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 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.
- *Beginning this quarter, DOJ reviews of OIS cases will be noted in the OIS case chart.*

## REVIEW OF INTERNAL AFFAIRS INVESTIGATIONS

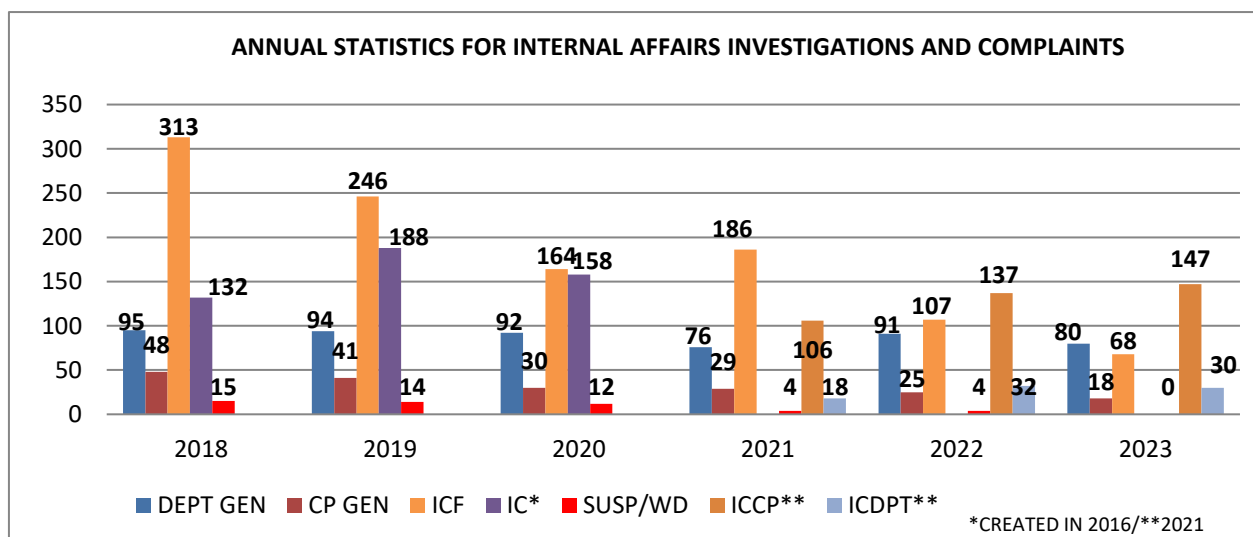
The following charts list the number and types of IA cases assigned and closed during the fourth quarter of 2023. For classification purposes, Discourteous Treatment also includes cases in which the officer was accused of conduct unbecoming of a police officer. The classification of Administrative Matters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



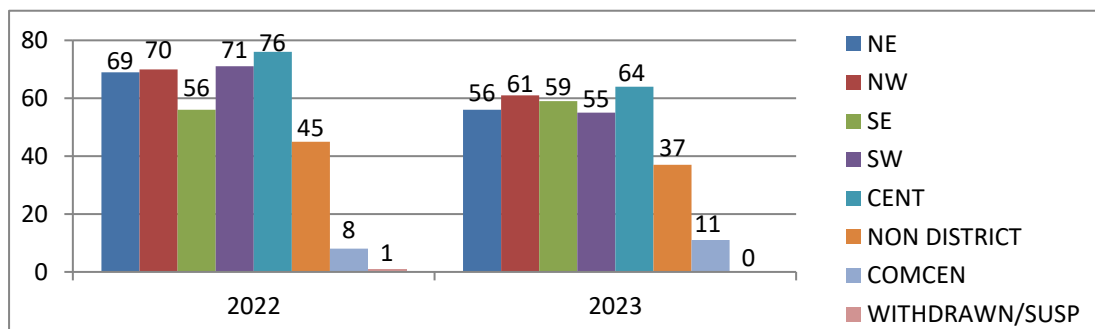
## COMPLAINTS OR INQUIRIES ASSIGNED BY POLICING DISTRICT

The following charts reflect the complaints or inquiries assigned in each of the five policing districts for the fourth quarter of 2023 and an annual 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 FOURTH QUARTER OF 2023									
ASSIGNED	NE	NW	SE	SW	CENT	NON-DISTRICT	COMCEN	WITHDRAWN/SUSPENDED	TOTAL
IA CASES	3	5	5	4	6	7	0	0	30
INFORMAL COMPLAINTS-CP	5	6	7	7	5	3	2	0	35
INFORMAL COMPLAINTS-DPT	0	1	0	3	2	0	1	0	7
INQUIRIES	2	6	4	1	7	0	0	0	20
2ND QTR TOTALS	10	18	16	15	20	10	3	0	92

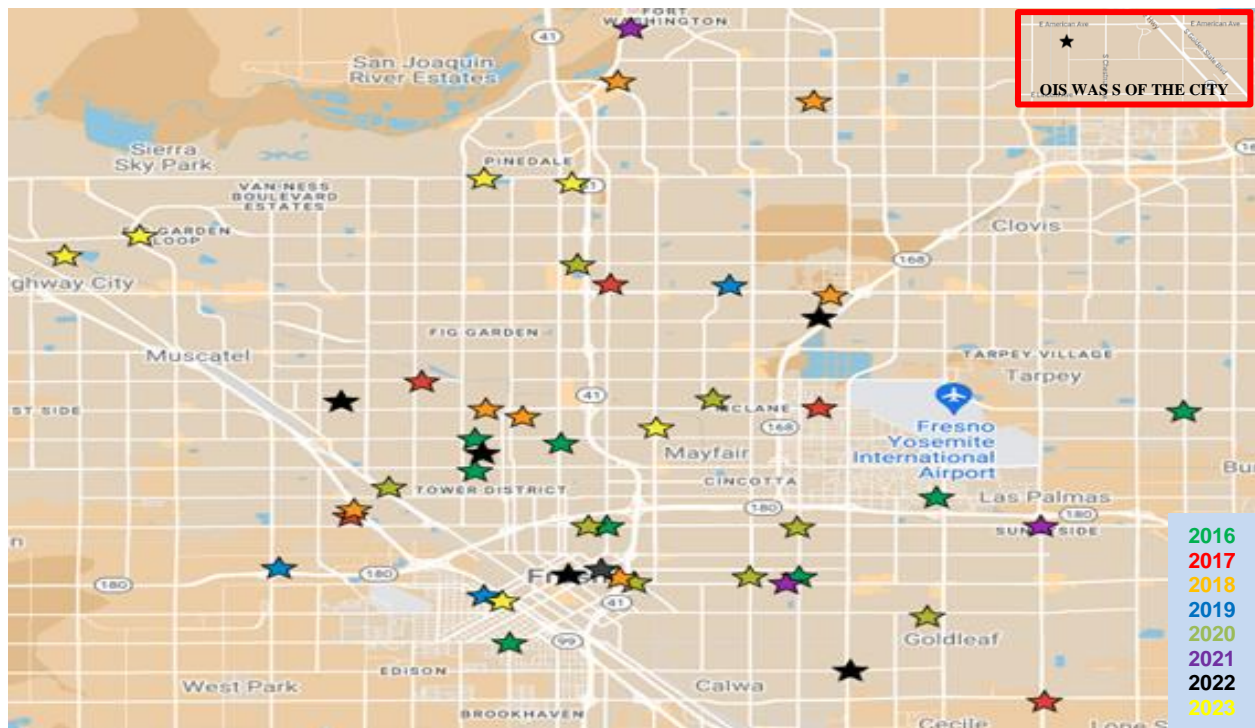
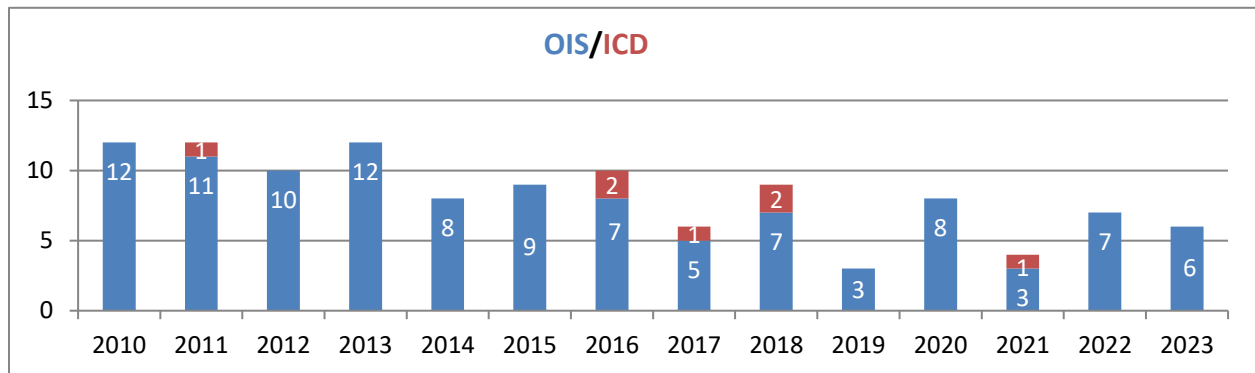
## ANNUAL COMPARISONS OF MATTERS BY DISTRICT





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 & VIDEO OF CONTACT 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) 2010 THROUGH 2023 (OIS 2016 TO 2023 MAPPED BELOW)



## COMPLETED AND PENDING OFFICER INVOLVED SHOOTING INVESTIGATIONS

During the fourth quarter two new OIS investigations were initiated and two 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. However, a concern was noted regarding IA2023-0017. The concern and the summaries appear below.

OFFICER INVOLVED SHOOTING (OIS) AND IN CUSTODY DEATHS (ICD)					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
22-0033	5/19/2022	P			O SHOT SUBJECT WHO HAD POINTED A REPLICA WEAPON AT RESPONDING Os, FATAL (DOJ REVIEWING)
23-0009	3/4/2023	P			SUBJECT SHOT AT AND HIT O AFTER A SHORT PURSUIT, Os RETURNED FIRE, FATAL (DOJ REVIEWING)
23-0012	3/18/2023	10/9/2023	W/IN POL	W/IN POL	Os SHOT SUBJECT WHO REFUSED COMMANDS AND ADVANCED ON Os WHILE HOLDING A KNIFE, FATAL
23-0017	4/3/2023	11/10/2023	W/IN POL	W/IN POL	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
23-0072	10/5/2023	P			SUBJECT WAS SHOT AFTER HE STABBED A STORE CLERK, REFUSED O'S COMMANDS, AND ADVANCED ON OFFICERS WITH A KNIFE AND OC SPRAY, NON-FATAL
23-0079	11/4/2023	P			Os SHOT SUBJECT WHEN HE REFUSED TO COMPLY AND ADVANCED TOWARDS OFFICERS WHILE HOLDING SCISSORS, FATAL

As noted in the previous quarterly report, the reviews of OIS cases 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. 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. **Reviews were conducted after personally viewing the full unedited BWC recordings along with other numerous amounts of evidence, to include but not limited to reports and interviews.**

**IA2023-0012:** On March 18, 2023, at approximately 11:20 PM, Officer #1, and Sergeant #2, were parked in their respective marked FPD patrol cars adjacent to the Southwest Policing District Station. The officers observed a subject, later identified as Coy Jackson, standing near the south entrance of the station. Concerned as to why Jackson was loitering where access is



limited to only FPD employees, the officers exited their patrol cars and attempted to make contact with Jackson. The officers made verbal contact with Jackson from a distance and requested he remove his hands from his pockets. Due to concerns as to what Jackson could be concealing in his pockets, the officers had drawn their department issued firearms. After several repeated commands to remove his hands from his pockets, Jackson stated, "I have a knife in it" and withdrew his right hand while holding a large hunting-style knife.

Officer #1 then transitioned to his department issued Taser. Jackson refused commands to drop the knife and began walking in the direction of the officers. At this time Officer #1 transitioned back to his firearm. The officers advised FPD Dispatch of the situation and requested a K-9 and additional officers. Corporal #3 was inside the station, heard the radio broadcast, and immediately exited the station to assist the officers in the parking lot.

Jackson was repeatedly ordered to drop the knife, but he refused to do so and continued walking in the direction of the officers. Commands were continued for Jackson to drop the knife and Officer #1 also yelled, "Dude, you're going to get shot, get back!" Jackson still refused to drop the knife and took a quick step in the direction of the officers. Jackson's actions of continuing to advance towards the officers while holding the large knife caused the officers to fear for their safety. In response to Jackson's actions Officer #1, Sergeant #2, and Corporal #3 discharged their weapons.

The embedded [Critical Incident Video](#) provides the pertinent portions from each of the involved officer's BWC recordings, along with a picture of Jackson's knife. The videos clearly show the officers afforded Jackson numerous opportunities to comply. However, instead of dropping the knife and walking away, which he could have done through the large open parking lot, he elected to advance towards the officers while holding the knife. Because Jackson was moving toward the officers, wearing a jacket, and possessing a deadly weapon, the application of a Taser was not practical. The [FBI](#) documented 1630 individuals were killed by knife assaults in 2022. The actual number could be greater due to the number of agencies who elected not to submit their data.

Jackson's actions left the officers no other option but to use deadly force to protect themselves as outlined below in [FPD Policy 300.8](#):

*The use of deadly force is only justified when the officer reasonably believes it is necessary in the following circumstances (Penal Code § 835a):*

*(a) An officer may use deadly force to protect themselves or others from what they reasonably believe is an imminent threat of death or serious bodily injury to the officer or another person.*

Therefore, the use of deadly force by Officer #1, Sergeant #2, and Corporal #3 was within policy.

**IA2023-0017:** On April 4, 2023, beginning at approximately 7:47 PM, the FPD received fourteen 9-1-1 calls regarding a disturbance in the alleyway behind the 2600 block of N. First Street. Several callers advised they heard at least one gunshot. The calls included a call from a

family member of the individual who fired the shot, later identified as Richard Castrillo, and the victim of the shooting, Castrillo's brother-in-law. In addition to the shooter and the victim, it was learned additional family members were involved in the disturbance and were present in the alleyway. Officers were immediately dispatched to the scene.

The first officers on scene were a double-unit, consisting of two officers riding together. Upon pulling into the alleyway, they observed the victim standing with blood covering his face and upper body. The Officers immediately exited the patrol car and retrieved a medical kit from the rear of the patrol SUV. As one Officer began administering first aid to the victim a family member approached them and yelled there was a man with a gun in the alley and pointed to an area further down the alleyway. The second Officer began walking in the direction of where the family member pointed and observed several people engaged in a physical altercation with Castrillo, who was on the ground holding a gun. The Officer took cover next to a parked vehicle and advised FPD dispatch of a man with a gun and the direction of her line-of-fire.

Shortly thereafter, another double unit arrived on scene. As Officer #1 approached the Officer who was administering first aid he asked for the location of the man with the gun. Officer #1 was pointed in the direction of Castrillo, who was still holding the gun as family members were attempting to take it away from him. Officer #1 told the family members to move out of the way several times. They soon complied and moved away from Castrillo, who was still holding the gun in his right hand and resting on his chest. Officer #1 told Castrillo to, "drop the gun." However, Castrillo raised the gun and pointed it in the direction of Officer #1 and other bystanders who were in the alleyway. Officer #1, fearing for his safety and the safety of others in the alleyway, including his fellow officers, fired his service weapon.

Once it was safe the officers approached Castrillo and removed the weapon from his chest and administered first aid until paramedics arrived. It was later learned the family members were able to extract the magazine from Castrillo's firearm during their struggle with him and the weapon was empty. Castrillo survived and was eventually charged with assault with a deadly weapon and possession of a firearm by a prohibited person. Castrillo's brother-in-law, who was shot by Castrillo earlier in the disturbance, also survived.

It should be noted there are firearms which can still fire a shot without a magazine inserted in the firearm. Therefore, unless Officer #1 was able to physically inspect Castrillo's firearm he would have no way of knowing it was empty and unable to fire a shot. Per [FPD Policy 300](#), specifically section 300.8, Deadly Force Applications, an officer may use deadly force in the following circumstances (CA Penal Code § 835a):

*(a) An officer may use deadly force to protect themselves or others from what they reasonably believe is an imminent threat of death or serious bodily injury to the officer or another person.*

*(b) An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.*

In addition to the FPD Policy, the following Supreme Court decision was also determined to be applicable when reviewing this OIS:

**Graham vs. Connor**, 490 U.S. 396 (1989), which held that courts must look at whether the officer's actions were reasonable based on the information and circumstances confronting that officer at the time. The court stated that the 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation. Not the best decision, only a reasonable decision.

The FPD released a [Critical Incident Video](#) which contained BWC recordings of the OIS and additional facts. In summary, Castrillo had already shot one person who was visibly wounded, was still in possession of a firearm, refused to drop the firearm, and raised it in the direction of bystanders and Officer #1. Therefore, the use of deadly force in this incident was within department policy.

Although the OIS was deemed within policy, the actions of the first two officers on scene warrant mentioning regarding their lack of a threat assessment. Upon arrival, they both exited their SUV patrol vehicle and immediately proceeded to the rear of the vehicle to remove the “red box”, which is a first aid kit. Once the kit was removed, they began walking to the shooting victim, who was visibly wounded and bleeding. Neither officer attempted to ascertain the location of the person who shot the victim, who happened to still be present in the alleyway. It was not until a family member approached them and stated Castrillo still had the gun and was still present. This occurred approximately one minute and twenty seconds after they arrived on scene. One officer then begins advancing towards the area where Castrillo was located. The same officer advised dispatch of a man with a gun and her direction of fire, which was approximately two minutes and 38 seconds after their arrival on scene. Approximately 30 seconds later is when the OIS occurred.

It is concerning the first two officers did not attempt to ascertain the status of the man with a gun immediately upon their arrival. The safety of the officers, which included those still enroute, and the bystanders in the alleyway, were at risk and should have been a priority. It is not suggested first aid for the victim should have been neglected, but questioning those present on whether the man with a gun was still present should have been a priority. Once it was learned the man with a gun was still present they could have taken proper tactical action, which included advising dispatch. It should be stressed their actions did not affect the outcome of this incident. The unfortunate outcome of this incident was dictated by the actions of Castrillo.

## **STATUS OF INTERNAL AFFAIRS INVESTIGATIONS BY CLASSIFICATION**

There was one new Bias Based investigation initiated and one case investigation was completed and reviewed. Following a thorough review of the IA investigation it was determined the officers' actions were within policy and not bias based. The chart for these cases appears on the next page.

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	10/19/2023	UNF x 2	UNF x 2	CP ALLEGED Os STOPPED/DETAINED CP BASED ON RACE

Three new Unreasonable Force investigations were initiated during the fourth quarter, and five cases were completed, which included one of the newly opened cases. As noted in 22-0074, one officer was found to have violated the use of force policy. In another case, 23-0033, one officer was found to have failed to activate a BWC. The remaining allegations of unreasonable force were all found to be unfounded or exonerated, which was also the findings of this office after a thorough review. While FPD was conducting a self-initiated review of officer actions the department noted a possible violation of the use of force policy and requested an investigation, 23-0081, which is pending.

UNREASONABLE FORCE					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
22-0074	9/14/2022	10/12/2023	SUS x 1 SUS x 3	NR	CP ALLEGED O1 & O2 USED UNREASONABLE FORCE DEPT ALLEGED Os LACKED DISCRETION, CONSCIENTIOUSNESS, AND MADE FALSE STATEMENTS
23-0033	6/5/2023	10/19/2023	EX SUS EX	EX NR EX	CP ALLEGED O USED UNREASONABLE FORCE DEPT ALLEGED O FAILED TO ACTIVATE BWC DEPT ALLEGED SGT FAILED TO SUPERVISE
23-0062	9/11/2023	11/10/2023	EX x 2	EX x 2	CP ALLEGED Os USED UNREASONABLE FORCE
23-0068	9/28/2023	12/1/2023	UNF UNF	UNF UNF	CP ALLEGED O USED UNREASONABLE FORCE AND WAS DISCOURTEOUS
23-0073	10/9/2023	12/15/2023	EX	EX	CP WAS DETAINED FOR SHOPLIFTING AND ALLEGED O USED UNREASONABLE FORCE
23-0081	11/9/2023	P			DEPT ALLEGED O USED UNREASONABLE FORCE WHILE RESTRAINING A SUBJECT
23-0087	11/30/2023	P			CP ALLEGED Os USED UNREASONABLE FORCE AND WERE ALSO DISCOURTEOUS

Eight case investigations for Discourteous Treatment or Conduct Unbecoming of a Police Officer were completed and nine new investigations were initiated. In seven of the eight completed cases, an officer was found to have violated at least one department policy. This office concurred with FPD's findings for the cases which did not violate a department policy.

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	10/19/2023	SUS	NR	CP ALLEGES O GAVE CP's PETS TO AN INDIVIDUAL WITHOUT CP's PERMISSION SUBSEQUENT TO ARREST
22-0076	9/21/2022	10/12/2023	SUS	NR	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
22-0106	12/1/2022	P			DEPT ALLEGED O VIOLATED A MISD OR FELONY STATUTE
22-0107	12/1/2022	11/13/2023	UNF NS UNF SUS SUS SUS SUS	NR	CP ALLEGED O PURSUED UNWELCOME SOLICITATION CP ALLEGED O ENGAGED IN SEX ON DUTY DEPT ALLEGED O FAILED TO OBEY ALL LAWS DEPT ALLEGED O VIOLATED PURSUIT POLICY DEPT ALLEGED O VIOLATED BWC POLICY DEPT ALLEGED O VIOLATED DISCRETION POLICY DEPT ALLEGED O LACKED INTEGRITY DEPT ALLEGED O FALSIFIED A DOCUMENT
22-0108	12/1/2022	11/16/2023	SUS SUS SUS SUS	NR	DEPT ALLEGED O WAS SMOKING ON DUTY, DISCOURTEOUS TO PUBLIC, REPORT PREPARATION WAS DELAYED FAILURE TO ACTIVATE BWC
22-0112	12/14/2022	11/16/2023	SUS SUS	NR	DEPT ALLEGED O DISPLAYED A LACK OF DISCRETION O MADE MISLEADING STATEMENT TO SUPERVISOR
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	10/2/2023	UNF SUS	UNF NR	CP ALLEGED O COMMITTED DV WHILE OFF-DUTY CP ALLEGED O PURCHASED MARIJUANA FOR SPOUSE
23-0023	4/20/2023	P			DEPT ALLEGED O1,O2 & O3 WERE DISCOURTEOUS DEPT ALLEGED O4 & O5 FAILED TO SUPERVISE
23-0032	6/5/2023	12/1/2023	SUS	NR	DEPT ALLEGED O WAS CITED FOR OFF-DUTY DUI
23-0043	7/10/2023	P			CP ALLEGED O HAD NO REASON TO HANDCUFF AND DETAIN HER
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	11/10/2023	EX  UNF EX	EX  UNF EX	CP ALLEGED O WAS DISCOURTEOUS WHEN O USED BEAM OF FLASHLIGHT TO IMPEDE CP RECORDING CP ALLEGED O DISCRIMINATED CP BASED ON GENDER DEPT ALLEGED O FAILED TO ACTIVATE BWC
23-0064	9/13/2023	P			DEPT ALLEGED Os MISHANDLED PROPERTY OF CP AFTER ARREST



DISCOURTEOUS TREATMENT OR CONDUCT UNBECOMING OF A POLICE OFFICER					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
23-0074	10/11/2023	P			DEPT ALLEGED O1 & O2 FAILED TO TAKE PROPER ACTION FOR A DISTURBANCE WHILE ON CONTRACT ASSIGNMENT
23-0076	10/16/2023	P			DEPT ALLEGED O MISPLACED CELL PHONE OF ARRESTEE
23-0084	11/16/2023	P			DEPT ALLEGED O1 VIOLATED FELONY STATUTE WHILE OFF DUTY DEPT ALLEGED O2 VIOLATED MISD STATUTE WHILE OFF DUTY
23-0088	11/30/2023	P			DEPT ALLEGED O1 HAD NEG DISCHARGE WHILE TRNG DEPT ALLEGED O1 FAILED TO ADVISE SUPV DEPT ALLEGED O1 & O2 DISPLAYED CONDUCT UNBECOMING OF A POLICE OFFICER
23-0089	11/30/2023	P			DEPT ALLEGED O WAS OFF-DUTY AND INTOXICATED RESULTING IN BEING DETAINED BY ANOTHER AGENCY
23-0090	11/30/2023	P			CP ALLEGED ABUSE BY O APPROX 20 YEARS AGO
23-0092	12/6/2023	p			DEPT ALLEGED O WAS DISCOURTEOUS TO ANOTHER O
23-0093	12/15/2023	P			DEPT ALLEGED Os FAILED TO CONDUCT PROPER INVESTIGATION
23-0095	12/15/2023	P			DEPT ALLEGED O INVOLVED IN PURSUIT AT EXCESSIVE SPEEDS

There were 11 Administrative of Performance Matters case investigations completed and four new investigations initiated during the review period. In all the completed investigations an officer or employee was found to be in violation of a department policy. In three of the completed investigations, there were several allegations made with only one policy being violated. Ten of the 11 completed investigations were initiated by the department. I did differ in a finding for case 23-0021, which is summarized following the chart.

ADMINISTRATIVE OR PERFORMANCE MATTERS					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
22-0101	11/18/2022	10/5/2023	SUS	NR	DEPT WAS INFORMED BY O OF ALLEGATIONS OF OTHER Os VIOLATING POLICIES
22-0105	11/29/2022	11/14/2023	SUS	NR	DEPT ALLEGED O FAILED TO COMPLETE 27 REPORTS
22-0109	12/9/2022	10/9/2023	SUS	NR	DEPT ALLEGED ESD ACCESSED & DISSEMINATED SENSITIVE INFORMATION TO FAMILY
22-0118	12/27/202	11/9/2023	SUS x 2	NR	DEPT ALLEGED Os VIOLATED PURSUIT POLICY

ADMINISTRATIVE OR PERFORMANCE MATTERS					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
23-0004	1/14/2023	P			DEPT ALLEGED O MADE FALSE STATEMENT REGARDING AN O INVOLVED VEH ACC
23-0007	2/23/2023	10/9/2023	SUS	NR	DEPT ALLEGED ESD IS MAKING PERSONAL CALLS WHILE ASSIGNED TO THE RADIO
23-0013	3/28/2023	10/13/2023	SUS x 1 EX x 1	NR EX x 1	O1 & O2 FAILED TO PROPERLY SEARCH ARRESTEE FOR FIREARM WHICH ARRESTEE LATER DISCARDED
23-0014	3/28/2023	11/14/2023	SUS	NR	DEPT ALLEGED O FAILED TO COMPLETE REPORTS WITHIN ESTABLISHED POLICY TIMELINE
23-0020	4/13/2023	12/6/2023	UNF UNF x 2  SUS	UNF UNF x 2  NR	DEPT ALLEGED O's COURSE OF ACTION CAUSED OTHER Os SAFETY CONCERNS DEPT ALLEGED Os MADE DISPARAGING REMARKS ABOUT OTHER Os DEPT ALLEGED O SHOWED LACK OF DISCRETION
23-0021	4/14/2023	10/5/2023	SUS x 1 NS x 1	NR EX x 1	DEPT ALLEGED O1 & O2 FAILED TO SECURE PROPERTY OF ARRESTEE
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
23-0057	8/24/2023	12/1/2023	SUS	NR	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	12/4/2023	SUS x 3	NR	DEPT ALLEGED Os OR CSO FAILED TO INSPECT VEHICLE FOR DAMAGE PRIOR TO OPERATING IT
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
23-0091	11/30/2023	P			DEPT ALLEGED Os LOST PROPERTY OF ARRESTEE WHEN PROPERTY WAS LEFT ON HOOD OF PATROL CAR
23-0094	12/15/2023	P			DEPT ALLEGED O DROVE WITHOUT CARE OR CAUTION DEPT ALLEGED O ENGAGED IN POLITICAL ENDORSEMENT WHILE ON DUTY

ADMINISTRATIVE OR PERFORMANCE MATTERS					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
23-0096	12/19/2023	P			DEPT ALLEGED O FAILED TO COMPLETE DUI TRAFFIC COLLISION REPORT PER POLICY TIMELINE
23-0098	12/26/2023	P			DEPT ALLEGED O LEFT WORK EARLY W/OUT APPROVAL

**IA2023-0021:** On February 10, 2023, O1 and O2 were dispatched to the scene of a traffic accident in which one driver was arrested for DUI. O1 conducted a pat-down search of the subject before transporting him to the FPD for processing. During the search, O1 located and removed a wallet from the subject's pocket. O1 placed the wallet on the roof of the patrol car and seated the subject in the patrol car for transport. O2 was unaware O1 had removed the subject's wallet and placed it on top of the patrol car. Upon arrival at the FPD O1 realized the wallet had not been secured and it was no longer on top of the patrol car.

O1 and O2 returned to the accident scene and walked approximately three-quarters of a mile from the accident scene in the same direction they drove to the FPD. The officers also drove the same route three times attempting to locate the wallet but were unsuccessful. Following the incident, the FPD initiated a complaint against O1 and O2 for possibly violating Policy 355.10(a), Failure to Secure Prisoner Property.

During the follow-up interviews, O1 took full responsibility for the loss of the wallet, and clarified O2 had no knowledge of the wallet being removed from the subject and placed on the top of the patrol car. O2 confirmed O1's account of the incident, resulting in the allegation against O1 being sustained. However, although it was officially determined the preponderance of evidence supported O2 did not fail to secure the prisoner's property, the allegation against O2 was deemed not sustained. Below are the definitions of sustained and not sustained.

**SUSTAINED:** THE INVESTIGATION DISCLOSED SUFFICIENT EVIDENCE TO PROVE THE TRUTH OF THE ALLEGATION IN THE COMPLAINT BY THE PREPONDERANCE OF THE EVIDENCE.

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

In view of the evidence clearly disproved the allegation against O2 and the above definitions, I believe the finding should have been exonerated, which is defined as follows:

**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.

Nine vehicle accident investigations were completed during the review period with eight investigations resulting in sustained findings and one was deemed not sustained. Following my review of the matter, the finding of not sustained was found to be appropriate. Twelve new investigations were initiated during the review period and are presently pending.

## IA INVESTIGATION DISCIPLINE RESULTS

The chart below shows the 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 four officers were terminated, one resigned in lieu of termination, nine were suspended a total of 530 hours, and nine 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.

	2016	2017	2018	2019	2020	2021	2022	2023
TERMINATIONS	7	3	2	8	5	5	6	8
RESIGNED IN LIEU OF	0	1	0	4	8	3	5	2
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	40
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	23
LAST CHANCE AGREEMENT	N/A	N/A	N/A	N/A	N/A	4	4	2
	32	31	49	72	84	59	58	79

## MATTERS NOT RELATED TO AN IA INVESTIGATION

Since August 2017, I have occasionally made recommendations to the FPD if, in my opinion, changes to policies or training would be beneficial to the members of the community and the FPD. Many of the recommendations were well received by the FPD resulting in changes. However, the FPD has self-initiated many changes without any urging from this office. Recently, Chief Balderrama ordered two specific policy changes which were noteworthy and warranted dissemination to the readers of this report.

Policy 316, Code-3 Response, which is when officers are responding to a call for service, or involved in a pursuit, with emergency lights and siren activated, was recently amended. In the past, there was no requirement to activate their BWC when Code-3 equipment was activated. Therefore, since the FPD does not have dash mounted cameras there was no documentation of their Code-3 driving. Chief Balderrama recognized this possible gap in transparency and the fact a change was needed to adhere to national standards and best practices.

Effective October 6, 2023, the policy was amended to require officers to activate their BWC when responding Code-3. The portion of the policy which was amended appears below in blue.

*Officers responding Code-3 are not relieved of the duty to continue to drive with due regard for the safety of all persons. [When responding Code-3, officers shall activate their body-worn camera as set forth within Policy §450.4.](#)*

The second change was to Policy 344, Report Preparation, specifically the portion that pertains to Electronic Probable Cause Declaration (ePCD), 344.7. An ePCD is an electronic report used to document the probable cause for an arrest of a named suspect who is being booked into either the Juvenile Justice Campus, or the Fresno County Jail, on felony or misdemeanor charges without a warrant. The officers are now required to contact the on-duty supervisor to review the ePCD. The supervisor must approve the ePCD prior to the suspect being booked. When feasible the sergeants are to respond to the arrest location to obtain the circumstances surrounding the arrest from the primary officer prior to booking. Once approved the ePCD shall be submitted for judicial review immediately after booking. This revised process will ensure the report articulates the facts to support the probable cause for detention before the subject is booked.

The above changes should be viewable to the public by accessing the FPD Policy Manual as soon as the changes are incorporated into the online [Policy Manual](#).

Effective January 1, 2024, Chief Balderrama has approved several additional policy changes which will be addressed in the OIR 2024 First Quarter Report.

## **WE HAVE MOVED**

Just a reminder, 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 on page 19.

## **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 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. The next page lists several ways you can reach our office. We look forward to hearing from you!



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