



OFFICE OF INDEPENDENT REVIEW

**REPORT FOR THE PERIOD OF
July 1, 2024, to September 30, 2024**

**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.

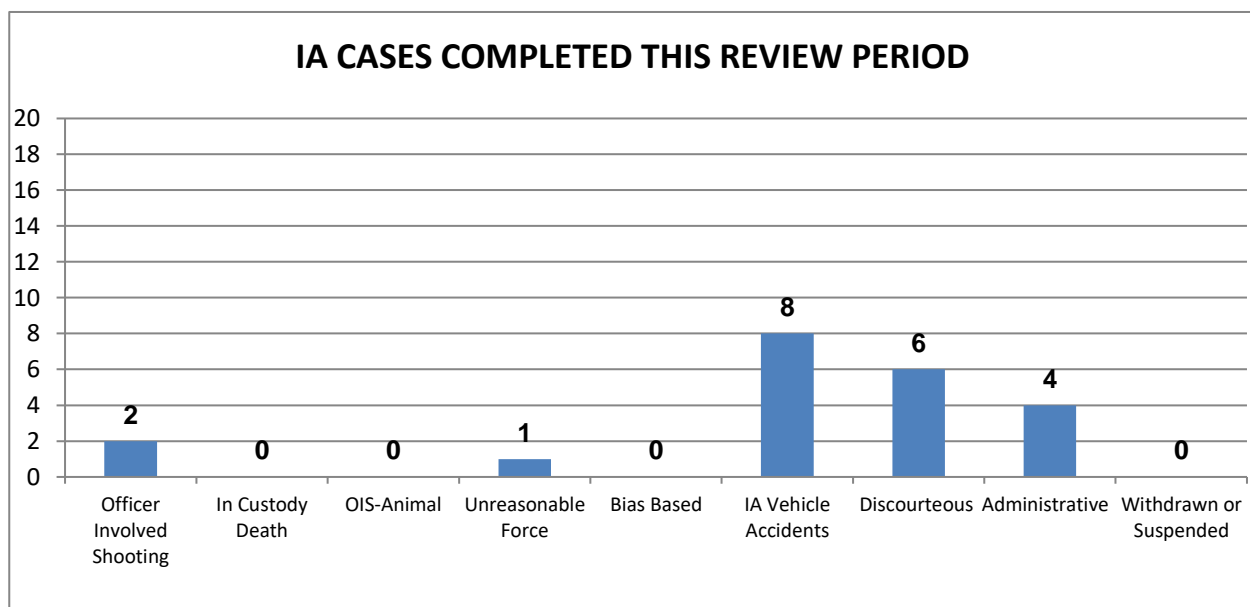
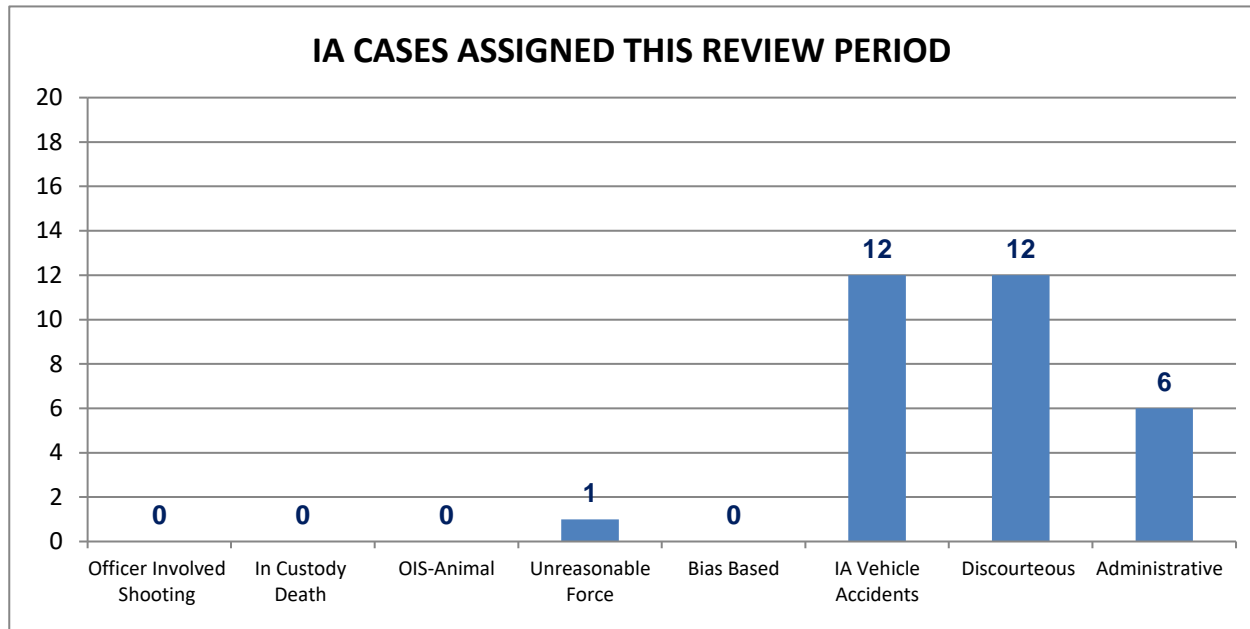
OIR REPORT FORMAT

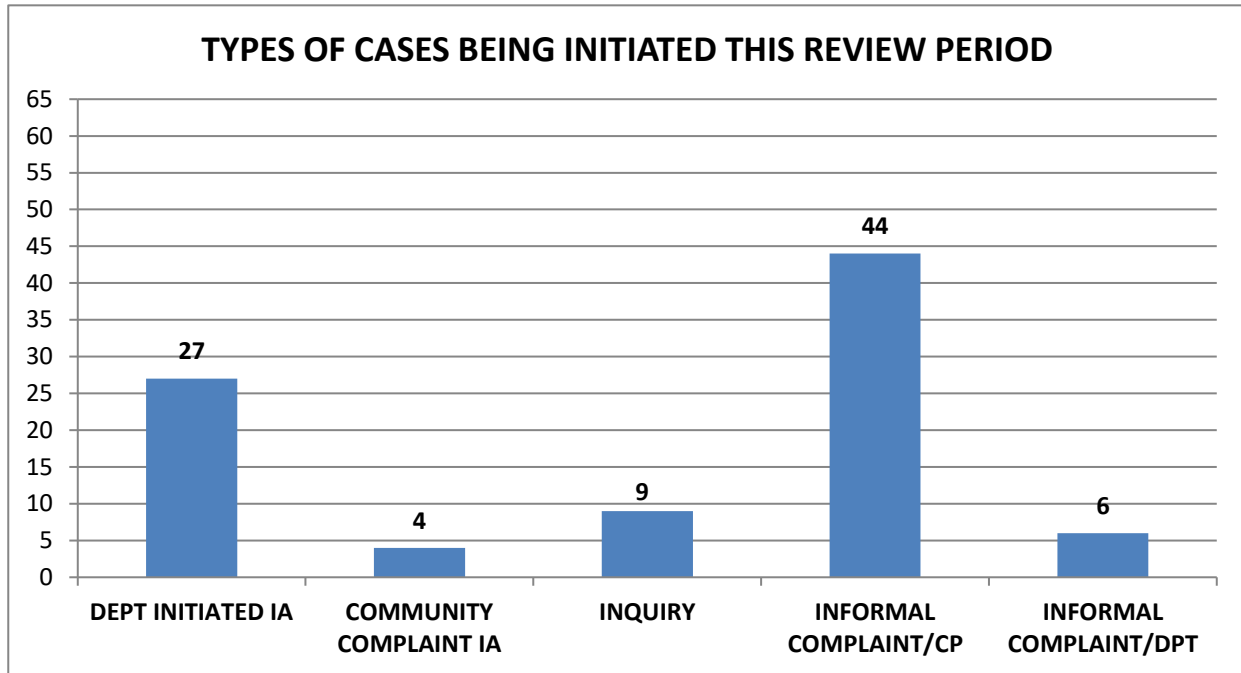
The OIR adheres to the following guidelines, format, and definitions in all quarterly reports:

- 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 Year to Date (YTD) data 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, Chief Assistant City Attorney Tina Griffin, and Interim Chief Mindy Casto, 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.
- If CA DOJ is reviewing an OIS it will be noted in the OIS case chart with the letters **DOJ**.

REVIEW OF INTERNAL AFFAIRS INVESTIGATIONS

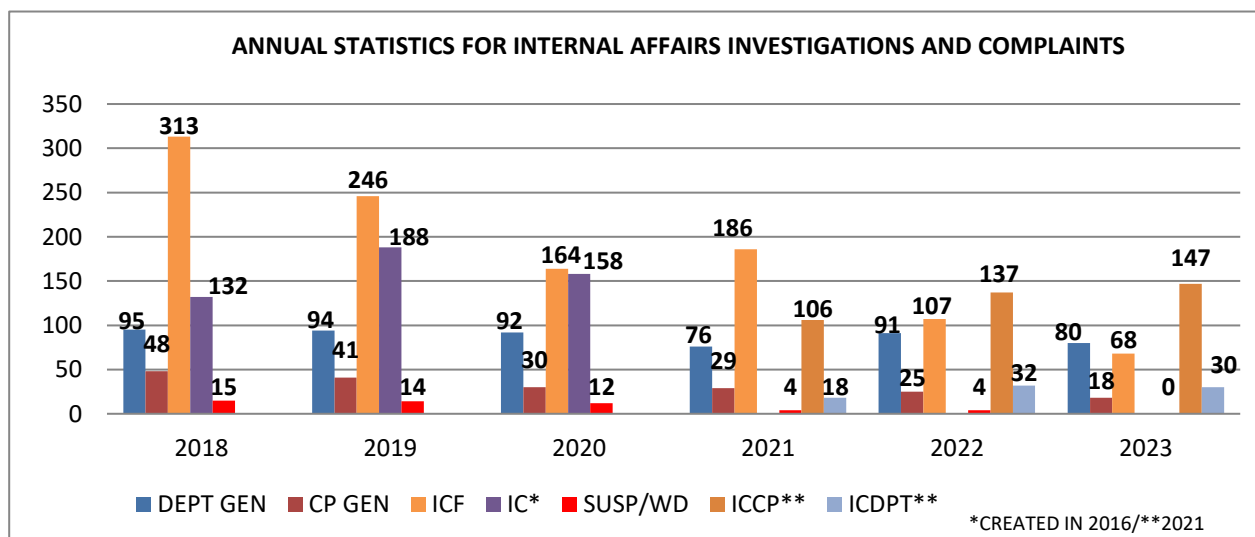
The following charts list the number and types of IA cases assigned and closed during the third quarter of 2024. For classification purposes, Discourteous Treatment also includes cases in which the officer was accused of conduct unbecoming of a police officer. The classification of Administrative Matters 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).



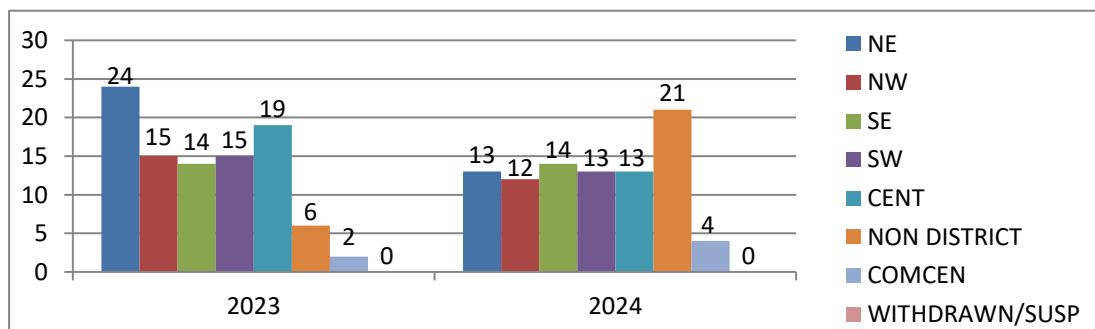
COMPLAINTS OR INQUIRIES ASSIGNED BY POLICING DISTRICT

The following charts reflect the complaints or inquiries assigned in each of the five policing districts for the third quarter of 2024, and a quarterly comparison between 2023 and 2024. 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 2024									
ASSIGNED	NE	NW	SE	SW	CENT	NON-DISTRICT	COMCEN	WITHDRAWN/SUSPENDED	TOTAL
IA CASES	3	2	2	6	7	10	1	0	31
INFORMAL COMPLAINTS-CP	4	9	8	5	5	10	3	0	44
INFORMAL COMPLAINTS-DPT	3	0	0	2	0	1	0	0	6
INQUIRIES	3	1	4	0	1	0	0	0	9
3rd QTR TOTALS	13	12	14	13	13	21	4	0	90

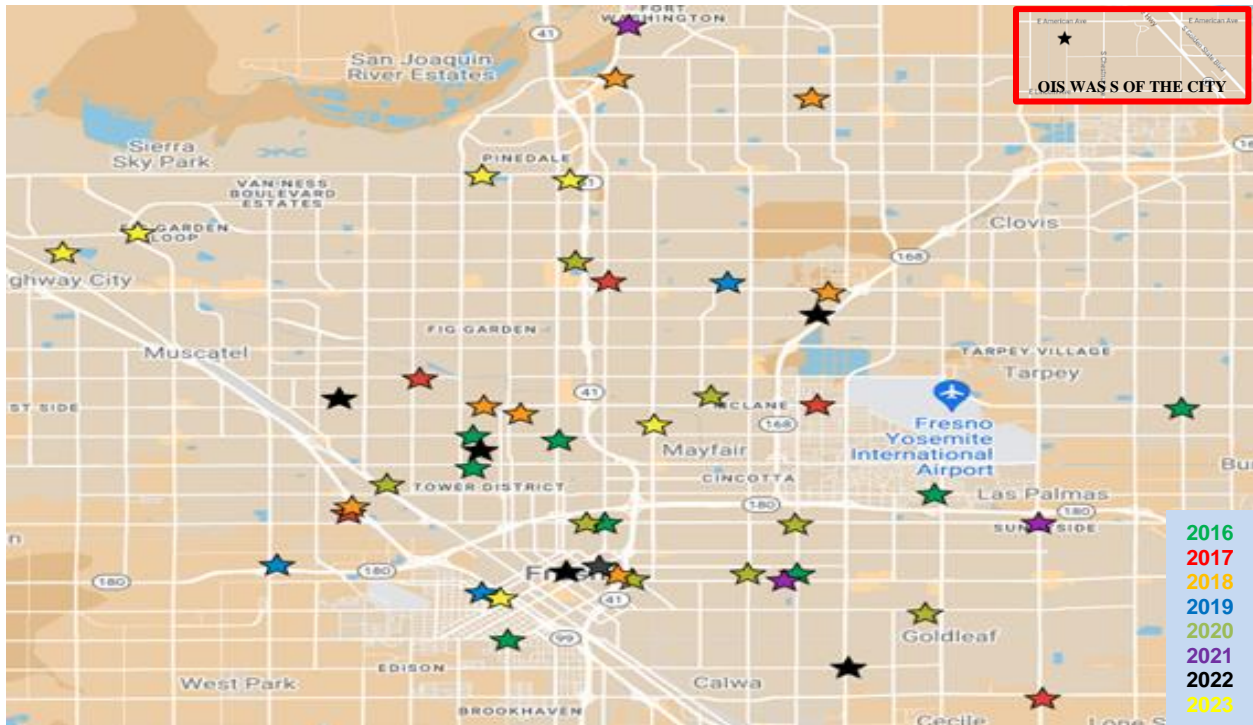
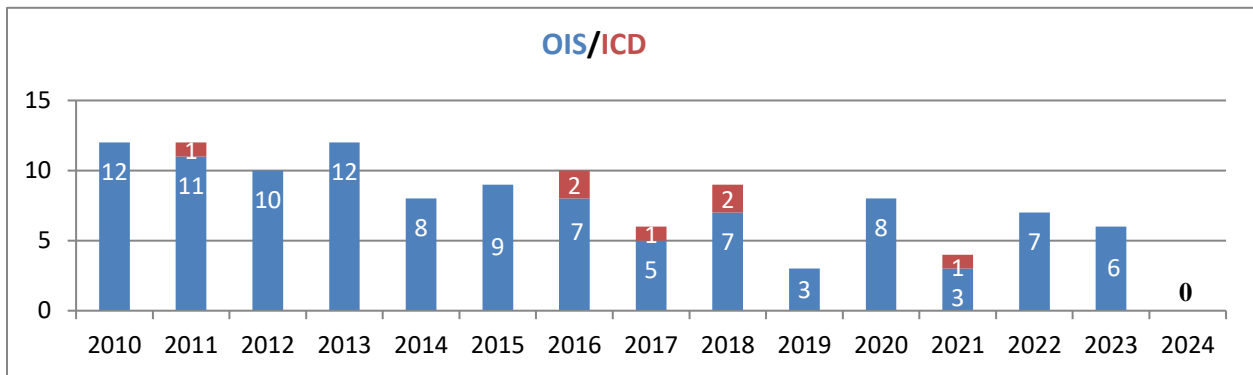
QUARTERLY COMPARISON OF MATTERS BY DISTRICT



EXPLANATION OF TERMS AND ABBREVIATIONS

UNF	UNFOUNDED: THE INVESTIGATION CLEARLY ESTABLISHED THE ALLEGATION WAS NOT TRUE. COMPLAINTS WHICH ARE DETERMINED TO BE FRIVOLOUS WILL FALL WITHIN THE CLASSIFICATION OF UNFOUNDED [PENAL CODE 832.5(C)]
EX	EXONERATED: THE INVESTIGATION CLEARLY ESTABLISHED THE ACTIONS OF THE PERSONNEL WHICH FORMED THE BASIS OF THE COMPLAINT DID NOT VIOLATE THE LAW OR FPD POLICY
NS	NOT SUSTAINED: THE INVESTIGATION FAILED TO DISCLOSE SUFFICIENT EVIDENCE TO CLEARLY PROVE OR DISPROVE THE ALLEGATION WITHIN THE COMPLAINT
SUS	SUSTAINED: THE INVESTIGATION DISCLOSED SUFFICIENT EVIDENCE TO PROVE THE TRUTH OF THE ALLEGATION IN THE COMPLAINT BY THE PREPONDERANCE OF THE EVIDENCE.
P	PENDING: THE INVESTIGATION HAS NOT BEEN COMPLETED
O	OFFICER: IF FOLLOWED BY A 1, 2, 3, ETC., INDICATES MORE THAN ONE OFFICER WAS BEING INVESTIGATED
RAI	REQUESTED ADDITIONAL INFORMATION WAS MADE BY OIR BEFORE A DECISION COULD BE MADE
NR	NOT REVIEWED: OIR DID NOT REVIEW THE CASE DUE TO FPD FINDING OF SUSTAINED OR THE CASE WAS SUSPENDED
CP	COMPLAINING PARTY: THE PERSON WHO FILED THE COMPLAINT
SUSP	SUSPENDED: THE OFFICER/EMPLOYEE RESIGNED OR RETIRED PRIOR TO THE CONCLUSION OF THE INVESTIGATION
BWC	BODY WORN CAMERAS: DEVICE AFFIXED TO UNIFORMS WHICH RECORDS AUDIO & 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 2024 (OIS 2016 TO 2024 YTD MAPPED BELOW)



COMPLETED AND PENDING OFFICER INVOLVED SHOOTING INVESTIGATIONS

There were no new OIS investigations initiated, and two were completed during the third quarter. The two pending OIS cases, in addition to the FPD investigation and OIR review, are also being investigated by the California Department of Justice (DOJ) under [AB1506](#). Presently there are [44 pending OIS cases](#) statewide being reviewed by the DOJ. Since the implementation of AB1506, a total of [18 investigations have been completed](#) with no criminal charges filed against any of the involved officers. Five completed investigations were released during the third quarter. The list of pending and completed investigations can be found by selecting the respective hyperlinks above.

The OIR review of an OIS case will include a hyperlink to the respective Critical Incident Video if one was released by the FPD. 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. **All OIS reviews are 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. In addition, I physically respond to the OIS scene and monitor the subsequent interviews of the officers and witnesses whenever possible.**

Below are the two completed OIS investigations and the two pending cases also being investigated by the **DOJ**.

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)
23-0009	3/4/2023	P			SUBJECT SHOT AT, AND HIT O, AFTER A SHORT PURSUIT, Os RETURNED FIRE, FATAL (DOJ)
23-0050	7/30/2023	7/18/2024	W/IN POL	W/IN POL	O SHOT SUBJECT WHO REFUSED COMMANDS AND PRODUCED A BB PISTOL, NON-FATAL
23-0079	11/4/2023	9/25/2024	W/IN POL	W/IN POL	Os SHOT SUBJECT WHEN HE REFUSED TO COMPLY AND ADVANCED TOWARDS OFFICERS WHILE HOLDING SHEARS, FATAL

IA2023-0050: On Sunday, July 30, 2023, at 9:38 AM, the FPD Communication Center received a 9-1-1 call of a solo vehicle crash in the area of East Warner and North Clark Street. The caller advised four subjects were observed running from the vehicle which was left abandoned in the middle of the roadway. At 10:02 AM, an Officer arrived in the area and determined the vehicle was a yet to be reported stolen automobile. As the Officer was coordinating a tow truck to respond to remove the vehicle he was approached by a resident. The resident advised that one of the subjects who ran from the vehicle was seen in the area on a scooter wearing a ski mask and

armed with a handgun in his waistband. AccuWeather listed the high temperature on this day as 103 degrees, causing concern as to why someone would be wearing a ski mask as temperatures were approaching triple digits.

The officer began circulating the area in an attempt to locate the armed individual. A short time later the Officer located a subject near Magill and Effie Street, who matched the description provided by the resident, later identified as a 15-year-old juvenile. The subject was wearing all black clothing, along with a black ski mask covering much of his face, and riding a self-propelled scooter, similar to a Razor scooter. The officer utilized the patrol car's public address system and ordered the subject to raise his hands and get down on his knees. The actions of the officer from this point forward were documented by his activated BWC. Due to the standard 30 second buffering of the BWC the first 30 seconds of the recording captured video only and no audio. However, the video does show the officer using the vehicle's public address system microphone when the recording started. As the officer exited his patrol car the audio began.

When the officer exited the patrol car the subject was standing with his hands in the air. As the Officer drew his Department issued handgun the subject went to his knees while keeping his hands in the air. However, the subject then lowered his left hand and began reaching towards his waistband area. Having been informed by the resident the subject had a gun in his waistband the Officer ordered the subject, "Get your hands up. Stop! Stop!" The subject did not stop reaching with his left hand and withdrew a handgun from his waistband. The subject then said, "it's a, it's a, it's a B-B", simultaneously the Officer fearing for his life discharged his handgun two times. The Officer immediately stopped firing when he recognized the subject no longer presented a threat, which was an excellent display of trigger discipline. The subject suffered two non-fatal wounds to his upper body. The Officer advised dispatch of shots fired and requested medical equipment Code 3 (lights and siren). The subject was transported to an area hospital and survived. The subject was later cited for California Penal Code 417.4, Brandishing an Imitation Firearm and released to the custody of his guardian. The entire incident was captured by the Officer's BWC recording. Shortly after the incident, the FPD released details of the OIS in the form of a [Critical Incident Video](#), which can be viewed by clicking on the embedded hyperlink.

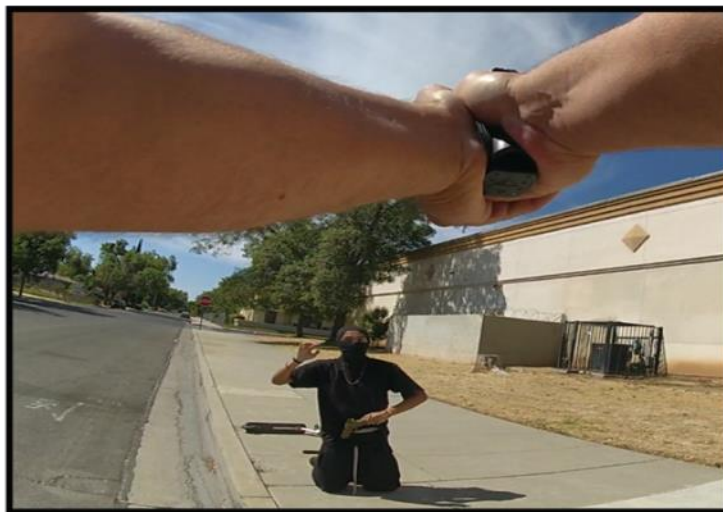
Some who view the OIS recording may question the Officer's actions because "the kid never pointed the weapon at the officer." This is a claim I heard after the video was released to the public. To explain why an Officer may engage a subject who is holding a firearm before it is actually pointed at them, I have included several videos which can be viewed by clicking on the respective hyperlinks. The first video was prepared by [Progressive FORCE Concepts](#). The video breaks down various scenarios of "action vs reaction," which explains why a subject's initial action will be quicker than an officer's reaction. Thus, a subject who is holding a weapon, although not pointing at an officer, can point and shoot before an officer is able to defend themselves by returning fire. Having served as an FBI Firearms Instructor for more than 25 years, plus 10 years as a member of the FBI SWAT Team, I found this video very informative. Specifically, to those who rely on television and movies to form an opinion on why officers have to wait for the subject to point the weapon at them before they defend themselves.

However, I also acknowledge some may be skeptical that the video may be biased since it was prepared by individuals who work with law enforcement. Readers are encouraged to search the internet for numerous articles and training videos on the subject of action vs reaction. Numerous studies have shown, and videos have proven, action beats reaction every time. To better illustrate

this point an OIS involving the [Sacramento Police Department](#) (SPD) was captured by BWC and dash cameras. The SPD had located a subject wanted for two homicides and initiated a felony traffic stop. The split screen video shows the dash camera recording from the lead patrol car in the upper left corner of the screen, with that officer's BWC recording directly below. The upper right screen is from the dash camera of the second patrol vehicle, with a BWC recording below this screen of another officer who parked behind and approached this patrol car on foot.

As you watch the video keep in mind there were five officers with weapons already drawn as they ordered the homicide subject to exit his vehicle. Knowing the subject was wanted for two homicides, the officers were aware of the potential for violence which raised their level of alertness. The subject was able to quickly exit his vehicle turn and shoot five times before an officer returned fire. Two officers were struck by bullets fired by the subject, both survived. Officer Victor Wolfe, who was shot, provided details of the OIS in an interview with the [Sacramento Bee](#), which also appeared in the [Fresno Bee](#). Wolfe described how officers had to process the situation before acting, which allowed the subject to fire several rounds before the officers were able to defend themselves. Every situation must be evaluated individually as the specifics may differ. However, this is a real-life example of action vs reaction and why officers sometimes may have to engage an armed subject before the weapon is pointed at them, especially if the officers are not behind protective cover.

Regarding the FPD OIS, the Officer also recognized the weapon the subject was removing from his waistband as the officer owned the 9mm version of the same weapon. The below still frame from the BWC recording shows the subject removing the weapon from his waistband as the Officer was pointing his weapon at the subject. Note the subject's weapon is positioned for a left-hand draw, and the subject is drawing the weapon with his left hand, which would have allowed him to quickly point the weapon at the officer and discharge it.



The photos on the next page are a side-by-side comparison of the two weapons. The weapon on the left is the BB version the subject was carrying. The photo on the right is the 9mm version of the weapon, which is the version the FPD Officer owns.



Unless an individual was physically holding the BB version, and able to closely examine the weapon, it would be impossible to visually distinguish it from the 9mm version during the split-second reaction time afforded to the Officer.

In view of the information and factors known at the time, the Officer reasonably believed the subject posed an imminent threat of death or serious bodily injury to him. The subject's decision to carry an exact replica of a real handgun and his decision to ignore the orders given by the officer and remove the weapon from his waistband, made it reasonable to perceive the subject had the means, opportunity, and apparent intent to harm him.

In addition to the Officer's actions being within the [FPD's Use of Force Policy, specifically Section 300.8](#), the following Supreme Court Case decision was also determined to be applicable in supporting the Officer's Use of Force.

Graham v Conner, 490 US 396(1989), held that courts must look at whether the officer's actions were objectively 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. This decision is not required to be the best decision, only a reasonable one.

Therefore, the Officer acted within the [FPD Policy, Section 300.8](#), when he used deadly force to defend himself.

IA2023-0079: On November 4, 2023, at 3:08 AM, the Fresno Police Department Communications Center received a 9-1-1 call requesting a police response to the 5500 block of Dante Avenue. The caller's estranged husband was threatening to commit suicide following an earlier dispute between the two parties. The caller identified the estranged husband as Maximiliano Sosa, who was no longer at the apartment, but in the area driving a grey Tesla. Mr. Sosa had also threatened to harm the man the caller was recently communicating with. Several officers arrived a short time later and confirmed Mr. Sosa was no longer at the location.

As officers were about to depart Mr. Sosa returned to the location driving the grey Tesla. Officer #1 stood next to a fully marked FPD patrol vehicle and attempted to stop Mr. Sosa by signaling him with his flashlight as he approached the officer. Mr. Sosa accelerated and swerved towards Officer #1 as he drove past him. Officer #1 jumped out of the way and Mr. Sosa stopped his vehicle a short distance away and yelled, "Do you want to play a game?" Mr. Sosa then drove away as officers attempted to conduct a traffic stop. Mr. Sosa drove recklessly at high speeds as he attempted to evade the officers. Due to the danger to the public the pursuit was terminated. It was later learned by examining the onboard cameras of the Tesla that Mr. Sosa drove through the traffic barriers on Veteran's Blvd, which was closed for construction. The camera recordings captured him stopping his vehicle and exiting to view the damage to his vehicle as a result of driving through the barriers.

A short time later Officer #1 spotted the Tesla at N Dante and W Roberts Ave. Officer #1 made a U-turn and again attempted to conduct a traffic stop. Mr. Sosa also made a U-turn and began driving behind Officer #1, who then tried to get behind Mr. Sosa again. However, Mr. Sosa sped away and Officer #1 was unable to catch up to the speeding Tesla. Other officers in the area engaged in a short pursuit with the Tesla. Mr. Sosa then drove the wrong way on West Veterans Blvd and began speeding away. A K-9 Officer was involved in a single vehicle collision as he attempted to pursue. At that point, the Officers lost sight of Mr. Sosa, and the pursuit was terminated.

Officers were then dispatched back to the caller's location and Mr. Sosa's residence in the event Mr. Sosa appeared at either location. Before the Officers returned to the caller's apartment the caller recontacted dispatch advising she had just spoken to Mr. Sosa. Although she did not believe he had a weapon, she believed he would pretend he did in order to force the police to shoot him. Mr. Sosa also told the caller the police had followed him, but he was able to lose them.

When Officers arrived at the caller's apartment the caller was speaking to Mr. Sosa on her cell phone. Officer #3 attempted to speak with Mr. Sosa in an attempt to de-escalate the situation. Mr. Sosa repeatedly cursed at Officer #3 and yelled, *"Bring the f***ing army because it's either me, him, or one of your f***ing police officers. I'm not gonna tell you again."* Realizing Mr. Sosa was becoming more agitated Officer #3 disconnected the call.

Officers #2 and #3 then walked outside through the adjacent parking lots in an attempt to locate Mr. Sosa if he returned. After a visual check of the area and not seeing the Tesla, the officers returned to the caller's apartment. Upon arriving back at the apartment, they discovered the caller was on the phone with Mr. Sosa. The caller activated the speaker phone so the Officers could hear what Mr. Sosa was saying. At that point, Mr. Sosa stated, *"Hey, I just want you to know that tonight, I die, all right? I'm gonna f***ing die or one of these cops is gonna die."*

A short time later they heard a noise near the front door and opened to find Mr. Sosa approaching the door while holding kitchen shears in his right hand. Mr. Sosa said, "Are you ready for this?" Officer #2 quickly backed up while trying to talk to Mr. Sosa. Officer #2 continued attempts to de-escalate the situation but Mr. Sosa continued yelling at the Officers and

the caller, who was still in the apartment. The attached [Critical Incident Video](#) contains the actions that unfolded from this point until the Officers were forced to use deadly force.

Although the video contains only portions of the nearly 40 minutes the Officers were on scene, the video does contain the unedited recording of the moment Mr. Sosa arrived until the Officers utilized deadly force. As previously stated, the complete unedited BWC recordings for each officer on scene were reviewed prior to preparing this OIS review. Throughout the Officer's interaction with Mr. Sosa, all Officers remained calm and exhausted all attempts to de-escalate the situation.

The video shows after the verbal attempts to de-escalate the situation were ignored by Mr. Sosa, Officer #4 deployed a non-lethal Taser. However, the Taser was ineffective, and Mr. Sosa continued rapidly advancing on the Officers while holding the shears in his right hand with the blades facing towards the Officers. Although the Officers were quickly backing up Mr. Sosa was able to shorten the distance between them until he was within a few feet of the Officers. At this point, the Officers were in fear for their lives and the lives of their fellow Officers forcing three Officers to discharge their Department issued firearms. Once Mr. Sosa fell to the ground, they immediately stopped firing. Officers then began medical aid until the paramedics arrived. Unfortunately, Mr. Sosa was pronounced deceased at the scene.

The Officers displayed extreme restraint when dealing with Mr. Sosa throughout this incident. Several times Mr. Sosa's actions met the guidelines of an assault with a deadly weapon per [California Penal Code 245\(a\)\(1\)](#). One action which was a potential violation occurred when Mr. Sosa accelerated and intentionally drove his vehicle at Officer #1, causing the Officer to jump out of the way to avoid being struck by the vehicle. Additionally, when Mr. Sosa arrived at the apartment and holding the kitchen shears in a threatening manner, his actions were possibly a violation of the aforementioned penal code. The below still frame extracted from Officer #2's BWC clearly shows Mr. Sosa inside the apartment again acting in a threatening manner as the Officer was backing up to avoid being stabbed.



Even after the numerous threatening actions displayed by Mr. Sosa the Officers exercised restraint and did not use deadly force. The Officers continually tried to de-escalate the situation although they were exposing themselves to serious bodily injury or death. The Officers did not use deadly force until Mr. Sosa ran towards them with the blades of the shears pointed at them.

In monitoring past comments from the community, the question was raised on why mental health clinicians were not deployed. At the time of the 9-1-1 call, 3:08 AM, mental health clinicians were not on duty due to the late hour of the event. Even if a clinician was on duty at the time, Mr. Sosa was not present when the officers arrived which would not have required a clinician to be dispatched. Also, Mr. Sosa was armed at the time which would have prevented a clinician from engaging with him. Finally, Mr. Sosa was present at the location for less than five minutes which would have not afforded a clinician enough time to respond to the location even if one was on duty at the time.

The following were applicable in this situation, [California Penal Code 835\(a\)](#), specifically (c) (1) (A), which reads in part as follows:

835(a) The Legislature finds and declares all of the following:

- (1) That the authority to use physical force, conferred on peace officers by this section, is a serious responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life. The Legislature further finds and declares that every person has a right to be free from excessive use of force by officers acting under color of law.*
 - (2) As set forth below, it is the intent of the Legislature that peace officers use deadly force only when necessary in defense of human life. In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.*
 - (3) That the decision by a peace officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by peace officers, in order to ensure that officers use force consistent with law and agency policies.*
 - (4) That the decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.*
 - (5) That individuals with physical, mental health, developmental, or intellectual disabilities are significantly more likely to experience greater levels of physical force during police interactions, as their disability may affect their ability to understand or comply with commands from peace officers. It is estimated that individuals with disabilities are involved in between one-third and one-half of all fatal encounters with law enforcement.*
- (b) Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance.*

(c) (1) Notwithstanding subdivision (b), a peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons:

(A) To defend against an imminent threat of death or serious bodily injury to the officer or to another person.

The FPD [Use of Force Policy 300, specifically 300.8](#), is also applicable in this situation. The California Attorney General also was of the opinion Mr. Sosa was armed with a deadly weapon as they decided not dispatch their [Division of Law Enforcement Investigative Team](#) to Fresno following this OIS.

Therefore, the use of deadly force by the FPD Officers was **within policy**.

It is also worth noting law enforcement agencies reported 6,796 homicides by knife or cutting instrument to the [FBI Uniformed Crime Report](#) from January 2020 thru December 2023.

STATUS OF INTERNAL AFFAIRS INVESTIGATIONS BY CLASSIFICATION

There were no new Bias Based investigations initiated during the third quarter. One investigation that was initiated during the previous quarter is pending.

BIAS BASED					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
24-0044	6/3/2024	P			CP ALLEGED Os USED UNREASONABLE FORCE AND O1 EXHIBITED BIAS TOWARDS THE CP

One new Unreasonable Force investigation was initiated during the quarter and one investigation was completed. The completed investigation included allegations the Officer also was discourteous and conducted an illegal search. The allegations were brought forth by the complainant and not by the Department. The IA investigation, along with the OIR review, determined the Officer did not use unreasonable force, nor was the Officer discourteous. The search conducted by the Officer was justified and within FPD policy. In addition to the newly initiated investigation one other matter is pending.

UNREASONABLE FORCE					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
24-0033	4/18/2024	P			CP ALLEGED O USED UNREASONABLE FORCE DEPT ALLEGED O FAILED TO ACTIVATE BWC
24-0039	5/16/2024	7/18/2024	EX UNF EX	EX UNF EX	CP ALLEGED O USED UNREASONABLE FORCE CP ALLEGED O WAS DISCOURTEOUS CP ALLEGED O CONDUCTED ILLEGAL SEARCH
24-0067	8/27/2024	P			CP ALLEGED O USED UNREASONABLE AND FORCED ENTRY BY PUSHING DOOR OPEN

Six Discourteous Treatment or Conduct Unbecoming of a Police Officer investigations were completed during this quarter and 12 investigations were initiated. Of the completed investigations, Officers were found to be in violation of at least one policy in six cases. Following thorough reviews, this office agreed with the findings for the allegations determined to be unfounded, exonerated, or not sustained.

DISCOURTEOUS TREATMENT OR CONDUCT UNBECOMING OF A POLICE OFFICER					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
23-0058	8/25/2023	7/16/2024	SUS x 2 SUS x 1	NR	DEPT ALLEGED Os WERE UNPROFESSIONAL OFF DUTY DEPT ALLEGED O SHOWED FPD ID FOR PERSONAL GAIN
23-0067	9/28/2023	8/1/2024	SUS SUS NS	NR NR NS	DEPT ALLEGED O DID NOT PROPERLY DOCUMENT SALE OF A PERSONAL FIREARM; DISPLAYED CONDUCT UNBECOMING; ALLEGED O ALSO LACKED INTEGRITY WHEN QUESTIONED
23-0084	11/16/2023	P			DEPT ALLEGED O MAY HAVE VIOLATED DV STATUTE WHILE OFF DUTY DEPT ALLEGED O1 & O2 MAY HAVE VIOLATED MISD CHILD NEG STATUTE WHILE OFF DUTY
23-0088	11/30/2023	9/19/2024	SUS SUS SUS	NR	DEPT ALLEGED O1 HAD NEG DISCHARGE WHILE TRNG DEPT ALLEGED O1 FAILED TO ADVISE SUPERVISOR DEPT ALLEGED O1, O2 & O3 DISPLAYED CONDUCT UNBECOMING OF A POLICE OFFICER
23-0092	12/6/2023	9/20/2024	SUS	NR	DEPT ALLEGED O WAS DISCOURTEOUS TO ANOTHER O
23-0093	12/15/2023	P	SUS x1 EX x 2	NR EX x 2	DEPT ALLEGED Os FAILED TO CONDUCT PROPER INVESTIGATION
23-0095	12/15/2023	P			DEPT ALLEGED O INVOLVED IN PURSUIT AT EXCESSIVE SPEEDS
24-0001	1/4/2024	P			DEPT ALLEGED O MADE INAPPROPRIATE COMMENT ABOUT ANOTHER O
24-0004	1/10/2024	P			DEPT ALLEGED Os DID NOT TERMINATE PURSUIT DEPT ALLEGED O DROVE AT HIGH SPEED DURING PURSUIT
24-0011	2/9/2024	P			DEPT ALLEGED O ARRIVED FOR SCHEDULED SHIFT WHILE UNDER THE INFLUENCE OF AN ALCOHOLIC BEVERAGE

DISCOURTEOUS TREATMENT OR CONDUCT UNBECOMING OF A POLICE OFFICER					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
24-0012	2/16/2024	P			DEPT ALLEGED O MADE INAPPROPRIATE COMMENTS TO A CADET
24-0013	2/21/2024	P			DEPT ALLEGED Os FAILED TO EXERCISE DUE REGARD AND CAUTION DURING A VEHICLE PURSUIT
24-0014	2/21/2024	P			DEPT ALLEGED O WAS ARRESTED FOR A DV MATTER
24-0015	2/21/2024	P			DEPT ALLEGED O FAILED TO USE GOOD JUDGEMENT WHEN HANDLING A CALL FOR SHOTS FIRED
24-0021	3/20/2024	P			DEPT ALLEGED O WAS UNPROFESSIONAL AND USED POOR JUDGEMENT WHEN INTERACTING WITH A JUVENILE
24-0022	3/21/2024	P			CP ALLEGED O REMOVED CURRENCY DURING THE SERVICE OF A SEARCH WARRANT
24-0025	3/27/2024	P			CP ALLEGED O PLAYED AN INAPPROPRIATE CELL PHONE VIDEO TO CP DURING A RIDE ALONG
24-0027	3/28/2024	9/23/2024	SUS NS UNF	NR NS UNF	DEPT ALLEGED CADET WAS ARRESTED FOR OFF-DUTY DV DEPT ALLEGED O VIOLATED MISDEMEANOR STATUTE DEPT ALLEGED O SOLICITED UNWELCOMED RELATIONSHIP
24-0028	4/2/2024	P			DEPT ALLEGED LT WAS DISCOURTEOUS TO OTHER Os
24-0029	4/8/2024	9/25/2024	UNF	UNF	DEPT WAS ADVISED BY ANOTHER DEPT AN O WAS ACUSED OF ABUSING STEP-CHILD BY A RELATIVE OF THE CHILD
24-0036	5/6/2024	P			DEPT ALLEGED O IS USING NARCOTICS
24-0037	5/10/2024	P			DEPT ALLEGED O SIGNED OUT CURRENCY FROM EVIDENCE IN VIOLATION OF DEPT POLICY & DISPLAYED CONDUCT UNBECOMING
24-0038	5/14/2024	P			CP ALLEGED O FAILED TO BOOK WHEELCHAIR AFTER CP HOSPITALIZED & CHAIR IS NOW MISSING
24-0043	6/3/2024	P			DEPT ALLEGED NON-SWORN EMP FALSELY CLAIMED TO BE A VICTIM OF HIT/RUN AND ALSO ACCESSED DATA SYSTEM TO RUN NAME OF EX-PARTNER

DISCOURTEOUS TREATMENT OR CONDUCT UNBECOMING OF A POLICE OFFICER					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
24-0045	6/14/2024	P			CP ALLEGED O USED CP'S DISPOSABLE GLOVES WITHOUT PERMISSION, ACCUSING O OF THEFT
24-0054	7/11/2024	P			CP ALLEGED O WAS RUDE & DISMISSIVE CP ALLEGED O LACKED DISCRETION DEPT ALLEGED O FAILED TO ACT BWC
24-0055	7/12/2024	P			DEPT ALLEGED Os LACKED DISCRETION
24-0057	7/17/2024	P			CP ALLEGED O IS HARASSING CP DUE TO BEING UNHOUSED
24-0058	7/18/2024	P			DEPT ALLEGED NON-SWORN MAY HAVE COMMITTED A FELONY VIOLATION
24-0061	7/30/2024	P			NON-SWORN ALLEGED O WAS PHYSICALLY INAPPROPRIATE
24-0062	7/30/2024	P			DEPT ALLEGED O MAY BE INVOLVED IN A DV MATTER
24-0064	8/19/2024	P			DEPT ALLEGED O MAY BE VIOLATING A FELONY STATUTE DUE TO USE OF STEROIDS
24-0070	8/27/2024	P			DEPT ALLEGED RESERVE O MAY HAVE VIOLATED FEL STATUTE WHEN ARRESTED FOR DV AND ASSAULT
24-0072	9/11/2024	P			DEPT ALLEGED NON-SWORN USED FPD ID FOR PERSONAL GAIN
24-0073	9/12/2024	P			DEPT ALLEGED OFF-DUTY O WAS IN THE AREA OF A SHOT SPOTTER ACTIVATION CONSUMING ALCOHOL
24-0075	9/16/2024	P			DEPT ALLEGED O DISPLAYED CONDUCT UNBECOMING DEPT ALLEGED O OPERATED CELL PHONE WHILE DRIVING
24-0077	9/23/2024	P			DEPT ALLEGED O WAS ARRESTED BY ANOTHER AGENCY FOR LEWD ACTS WITH A CHILD

During the review period four Administrative or Performance Matters investigations were completed. In each of the completed investigations the officers or employees were found to have violated at least one FPD Department Policy. Six new investigations were initiated during the same period, which included an investigation that was also completed during the third quarter. The chart for this category begins on the next page.

ADMINISTRATIVE OR PERFORMANCE MATTERS					
IA CASE NUMBER	DATE ASSIGNED	DATE COMPLETED	FPD FINDING	OIR FINDING	SUMMARY
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 AN OUT OF POLICY PURSUIT
23-0094	12/15/2023	P			DEPT ALLEGED O DROVE WITHOUT CARE OR CAUTION DEPT ALLEGED O ENGAGED IN POLITICAL ENDORSEMENT WHILE ON DUTY
24-0003	1/10/2024	8/12/2024	SUS	NR	DEPT ALLEGED O SELF-REPORTED MAKING AN INAPPROPRIATE COMMENT WHILE TALKING TO ANOTHER O
24-0009	1/30/2024	P			DEPT ALLEGED Os VIOLATED SEVERAL DEPT POL
24-0018	3/5/2024	8/30/2024	SUS	NR	DEPT ALLEGED O FAILED TO PROPERLY SEARCH SUBJECT WHEN FIREARM WAS LATER FOUND IN BACKSEAT OF PATROL CAR
24-0035	4/29/2024	9/20/2024	SUS	NR	DEPT ALLEGED NON-SWORN FAILED TO COMPLETE DUTIES
24-0040	5/20/2024	P			DEPT ALLEGED O FAILED TO REPORT DAMAGE TO PATROL VEHICLE
24-0042	6/3/2024	P			DEPT ALLEGED O QUERIED IND NAME AT THE REQUEST OF IND'S RELATIVE
24-0046	6/18/2024	P			DEPT ALLEGED O IMPROPERLY STORED PERSONALLY OWNED FIREARM IN PATROL CAR
24-0048	7/1/2024	P			DEPT ALLEGED NON-SWORN EMP PROVIDED FALSE STATEMENT TO SUPERVISOR AND WAS INVOLVED IN AN AT FAULT ACCIDENT
24-0049	7/1/2024	9/19/2024	SUS	NR	DEPT ALLEGED EMP WAS ABUSING LEAVE BENEFIT
24-0066	8/22/2024	P			DEPT ALLEGED O FAILED TO REPORT A VEH ACC IN A TIMELY MANNER
24-0068	8/27/2024	P			DEPT ALLEGED Os ACCESSED A RESTRICTED REPORT WHICH WAS NOT A PART OF THEIR DUTIES
24-0069	8/27/2024	P			DEPT ALLEGED Os FAILED TO SEARCH SUBJ WHO WAS ARMED AND LATER TRANSPORTED TO FPD HQ
24-0078	9/27/2024	P			DEPT ALLEGED O DID NOT REPORT FOR CONTRACT ASSIGNMENT ON TIME

VEHICLE ACCIDENTS

Eight Vehicle Accidents investigations were completed during the third quarter and 12 were initiated. In each of the completed investigations the Officer was found to be at fault for the accident. One Vehicle Accident matter that was completed during the previous quarter warranted a comment by this office following my review of the matter.

A detective was involved in a minor vehicle accident on June 10, 2023, and immediately notified Department personnel who dispatched traffic officers to conduct a vehicle accident investigation. The detective was found to be at fault for the accident. In addition to being at fault, it was determined the detective was operating the unmarked Department vehicle while off-duty, which is also a violation of Department Policy. The administrative internal investigation was completed on March 7, 2024, with findings of the detective being in violation of the two aforementioned policies. However, the detective was not disciplined due to the Department not imposing discipline within one year from the date of the being notified of accident. This requirement is outlined in the [Public Safety Officers Procedural Bill of Rights Act \(PBOR\)](#), California Government Code 3304 (d)(1), which reads in part as follows:

***3304** (d)(1) Except as provided in this subdivision and subdivision (g), no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency's discovery by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct. This one-year limitation period shall apply only if the act, omission, or other misconduct occurred on or after January 1, 1998. In the event that the public agency determines that discipline may be taken, it shall complete its investigation and notify the public safety officer of its proposed discipline by a Letter of Intent or Notice of Adverse Action articulating the discipline that year, except as provided in paragraph (2). The public agency shall not be required to impose the discipline within that one-year period.*

Following the review by this office it was discovered the detective was operating the vehicle with their fiancé as a passenger. The passenger was employed by the City of Fresno, but not by the FPD. This exposed the detective to another possible policy violation which was not listed in the case, FPD Policy 703.3, General Rules (All Vehicles), which reads as follows:

703.3(b) No passengers except ride-a-longs, witnesses/involved parties, and arrestees are permitted, unless authorized by a supervisor.

During my regularly scheduled monthly meeting with Chief Mindy Casto in July, the matter was brought to her attention. I explained the concern of allowing the one-year toll to pass without imposing discipline may set a precedence for other officers involved in accidents, and the misuse of a Department vehicle. The matter of overlooking the unauthorized passenger was also brought to her attention. Chief Casto was receptive to my concerns and advised the matter would be reviewed. Shortly thereafter Chief Casto explained what steps she had taken to ensure this oversight would not occur again. Due to this being a personnel matter the specific actions are protected by the PBOR and not permitted for public dissemination.

This information is being included in this report in an effort to maintain transparency with the community, and to highlight the immediate action by Chief Casto once she was notified.

IA INVESTIGATION DISCIPLINE RESULTS

The following chart reflects the totals for the discipline issued, or option chosen by the officers/employees, who were determined to be in violation of a FPD policy. During the third quarter 10 officers were suspended for a total of 420 hours, five received a Letter of Reprimand, and five 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 be required to attend additional training. The discipline category for Training was added to the chart as of last quarter.

It should be noted several officers voluntarily left the Department before the respective IA investigations were completed. Therefore, their departures are not subject to inclusion in the below chart. However, the investigations were completed, and the results were documented for future reference.

The below are annual totals for prior years and a quarterly total for the present year.

DISCIPLINE ISSUED	2016	2017	2018	2019	2020	2021	2022	2023	2024 3rd QTR
TERMINATIONS	7	3	2	8	5	5	6	8	0
RESIGNED IN LIEU OF	0	1	0	4	8	3	5	2	0
RETIRED IN LIEU OF	0	0	0	4	3	0	2	3	0
DEMOTION	0	0	0	1	0	0	0	1	0
SUSPENDED	16	17	32	31	52	22	28	40	10
PAYMENT IN LIEU OF	0	0	0	4	1	0	0	0	0
FINES	0	0	0	0	0	0	1	0	0
MEDICAL SEPARATION	NA	NA	NA	3	0	0	0	0	0
LETTERS OF REPRIMAND	9	10	15	17	15	25	12	23	5
LAST CHANCE AGREEMENT	N/A	N/A	N/A	N/A	N/A	4	4	2	0
TRAINING	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	5
TOTAL	32	31	49	72	84	59	58	79	20

SUMMARY

If your group or organization is planning an event this fall or winter and you would like our office to set up an informational booth at your event, or speak at your meeting, please contact us. By participating in community events, we are able to inform the public of our role in enhancing trust and transparency with the FPD. You can follow our social media pages to view a few of the recent events we attended.

Facebook: [Fresno Review](#)

X (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 below contact information can also be used if you have questions regarding how to initiate a complaint or the complaint process.

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

Telephone: (559) 621-8617

Email: OIR@fresno.gov

John A. Gliatta
Independent Reviewer
Office of Independent Review