FRESNO POLICE DEPARTMENT’S
TRAINING ON THE USE OF FORCE

Fresno County Grand Jury Report No. 2

No man ever reached to excellence in any one art or profession without having passed through the slow and painful process of study and preparation.

-Horace, Roman lyric poet

SUMMARY

A complaint was received expressing concern about officer involved shootings and possible insufficient training in de-escalation techniques versus use of a weapon.

An inquiry was undertaken, which included review of policies and procedures, training manuals, and general Internet research. In addition, the grand jury interviewed multiple Fresno Police Department officers and one citizen who has consulted with the Fresno Police Department on numerous occasions. The grand jury found all interviewees to be open, willing to share documents requested, and pleasant in the interview process.

The grand jury inquiry of the Fresno Police Department focused on the following areas:

● Review of the Fresno Police Department’s policy for use of force.
● How the department responds to incidents leading to death.
● Determine the frequency of these events.
● Determine whether officers followed the provided training and department policies.
● Additional training that may be introduced.

The purpose of this inquiry was to review Fresno Police Department’s use of force training and its implementation. The inquiry focused on the following: whether adequate training is provided to avoid officer involved shooting (OIS), whether officers follow the provided training, and what additional training might be necessary.

This inquiry found the training provided by the Fresno Police Department meets all professional standards however; it may not be sufficiently utilized.

GLOSSARY

CFS: Calls to the Fresno Police Department for service.

COPS: Community Oriented Policing Services: A component of the U.S. Department of Justice responsible for advancing the practice of community policing by the nation’s state, local, territorial and tribal law enforcement agencies through information and grant resources.

EAP: Employee Assistance Program is provided at no charge to employee to promote employee health and wellbeing. EAP is an assessment, short-term counseling, and referral service.
BACKGROUND

FRESNO POLICE DEPARTMENT MISSION

The men and women of the Fresno Police Department are dedicated to serving our community with honesty, compassion, and respect as we keep our citizens safe. We do this by preventing citizens from becoming victims of crime or being in a traffic collision. This is our highest priority. We are also committed to providing excellent service in those areas that are valued most by our citizens. We have a desire to live. Above all else, we must maintain the trust of our community. This five letter word is the
FRESNO POLICE DEPARTMENT DEMOGRAPHICS

Fresno Police Department’s area of influence is 104.8 square miles with a 2010 census population of 485,298 (U.S. census). Fresno County Economic Development Corporation estimates the 2016 population at 520,453.

FPD’s 2017 Budget includes a total of 801 authorized sworn positions, while the budget funds 799.15 sworn full time equivalent. The difference between the authorized and full time equivalent results is due to the 11 new sworn positions planned to be filled under a staggered hiring process during the first half of FY 2017. It should be noted that the 801 authorized sworn positions includes 15 Cadet II positions. The total “truly” authorized sworn positions total 786, net of 15 Cadet IIs. (City of Fresno website/finance.)

As of December 2016, there were 741 officers on duty for the 786 sworn positions approved by the Fresno City Council: one chief, four deputy chiefs, seven captains, 20 lieutenants, 78 sergeants, and 631 police officers. (Transparent California.)

The department’s 2017 budget of $166,878,500 supports five locations: Central headquarters and four outlying field substations: Northeast, Northwest, Southeast, and Southwest. Also, 813 vehicles, two helicopters, one airplane, and 14 K-9 units. (Fresno Police Department website.)

By definition, law enforcement positions are sworn and non-sworn. Sworn officers carry firearms, a badge, have arrest power, and graduate from an accredited law enforcement academy. Non-sworn officers do not have at least one of the requirements mentioned above, and may include positions as criminal analysts, crime scene technicians, and crime lab. (Fresno Police Department website.)

OFFICER INVOLVED SHOOTINGS

In 2016 in the City of Fresno, there were eight officer involved shootings where an officer discharged a weapon at another person. IA files ruled six OISs were within policy; one was not within policy and the officer was disciplined, and one remains under investigation. From 2013 to 2016, there were 34 officer involved shootings within the City of Fresno. (Fresno Police Department IA report.)
METHODOLOGY

The grand jury read the complaint and began its inquiry by asking the Fresno Police Department (FPD) for the requirements to become a police officer in Fresno. A copy of the police department’s policies and procedures was provided to the grand jury, including training outlines. Interviews were conducted with members from all levels of the FPD, officers in charge of the Regional Training Center (RTC), and a spokesperson from the Fresno Police Officers Association (FPOA). The grand jury also interviewed a member of the community who is knowledgeable and involved with police activities.

Visits were made to the RTC, the FPD Headquarters Real Time Crime Center (RTCC), along with the call and dispatch centers. Documentation relating to officer involved shootings was requested from the Internal Affairs Division (IA) and visits were made there to obtain additional information available to the grand jury under Penal Code, section 832.7(a). Statistical data in the form of quarterly reports - 2014 through 2016 - from the Office of Independent Review (OIR) were provided for review. General Internet research was conducted.

The grand jury reviewed the following documents:

- Fresno Police Department Policies and Procedures 300 through 384
- Fresno Police Department Training Policy 208
- Fresno Police Department Regional Training Center Training Outlines
- Fresno Police Department Reportable Response Resistance Project, First Quarter 2016
- Fresno Police Department Internal Affairs Statistical Reports/OIS
- Regional Training Center Course Outlines
- Individual Officer Training Report for one Officer
- Interviews with Officers and Community members
DISCUSSION

This section summarizes and reviews how officers are trained from time of hire through permanent assignment.

APPLICATION AND HIRING OF POTENTIAL OFFICERS

Sworn Police officers are drawn from the following sources: (Fresno Police Department website/personnel.)

- **Cadet I**: In a training class of non-emergency services.
- **Cadet II**: In training but a graduate of POST-approved academy.
- **Police Officer Recruit**: Selected from Cadet list or Lateral application.
- **Laterals**: Applicant with previous experience as sworn officer with a local governmental law enforcement agency.

Applicants interested in becoming a police officer with the Fresno Police Department must meet the minimum requirements outlined below.

Many prospective Fresno police officers first apply to the position of non-sworn police cadet. Candidates will complete time in service as a Cadet I and/or II. They must complete a California Commission on Police Officer Standards and Training (POST)-approved training academy, following which they may be promoted to the position of police officer recruit. Those who do not wish to participate in the cadet program are not required to do so, but are similarly responsible for completing an approved training academy and paying the required tuition themselves. At each stage of the process, applicants must pass the appropriate written exam, physical ability test, medical and psychological exams, background check, and interview(s). Police recruits receive formal field training to prepare them for promotion to the position of sworn officer. (Criminal Justice Degrees Schools website.)

Starting their career as a cadet, an officer has the opportunity to discover if police work is the right job for them. A police cadet will perform non-enforcement duties like traffic and parking control, guard and transportation duty for prisoners, and completing reports.

The cadet program lasts for a period of not more than 48 months, at which time, the individual is either promoted to police officer or is terminated.

Within budgetary parameters, the FPD will recruit the best candidates possible who are representative of the community in ethnicity and gender. Although the department will not
compromise standards to achieve minority recruiting goals, they will give special consideration to members of targeted (underrepresented) classes. (Fresno Police Department website/Employment and Volunteer Services.)

The officer workforce has not returned to pre-recession levels; salaries have not kept pace with neighboring communities, which has contributed to challenges in recruitment as well as retention and training. Interviews with officers gave the grand jury the understanding that because of the shortage of personnel to fill in on the work schedule for officers who are scheduled for training or those who wish to participate in additional training, it is difficult to find time for classes and practice skills learned. Skills would necessarily include de-escalation.

<table>
<thead>
<tr>
<th>CITY</th>
<th>AVERAGE STARTING SALARY</th>
<th>CITY POPULATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fresno</td>
<td>$55,858</td>
<td>520,453</td>
</tr>
<tr>
<td>Clovis</td>
<td>$69,288</td>
<td>96,631</td>
</tr>
<tr>
<td>Dinuba</td>
<td>$71,244</td>
<td>21,453</td>
</tr>
<tr>
<td>Sanger</td>
<td>$51,371</td>
<td>24,270</td>
</tr>
</tbody>
</table>

(Transparent California and U.S. census)

**TRAINING**

The Fresno Police Department Training Policy 208.1 states:

- The department will ensure personnel possess the knowledge and skills necessary to provide a professional level of service that meets the needs of the community.
- It is the goal of the department to administer a training program that will provide for the professional and continued development of its personnel. The department seeks to provide on-going training and encourages all personnel to participate in advanced training and formal education on a continual basis. Training is provided within the confines of funding, requirements of a given assignment, staffing levels, and legal mandates. Whenever possible, the department will use courses certified by POST.

Officers are also trained to be in compliance with the Supreme Court Ruling, *Graham v. Connor* (1989) 490 U.S. 386, which sets the national standard for when deadly force may be utilized.
The decision to use force, including deadly force, must be made based solely on the facts known to the member at the time on the situation as it reasonably appeared to the member(s) directly involved in its application. Facts unknown to the member at the time, no matter how compelling, cannot be considered later in determining the reasonableness of the member’s decision to use force.

REGIONAL TRAINING CENTER

In 2009, the Fresno City Council approved construction contracts to build the Regional Training Center (RTC) at a cost of approximately $12.8 million. Revenues from classes accrue through billings to POST, Fresno Community College, and payments from other agencies.

The center covers 80 acres in southwest Fresno and features classrooms, an Emergency Vehicle Operations Course, firearms range, a “mat room,” three-story “Tactical Training House,” a three-story sniper tower, which can also be used for repelling and window assaults, and a video scenario simulation building. (Fresno Police Department Regional Training Center website.)

Video simulators are used to train officers. The video scenes are programmed to simulate real events. They can be controlled throughout an exercise to coincide with the reactions of the officer.

Role playing has been introduced in scenario based training to effect a more interactive environment. The actors simulate realistic, life threatening events, which are used to evaluate officer reactions.

Every sworn officer is required to complete Perishable Skills certification every 24 months. The perishable skills, as identified by POST are: (Regional Training Center Course Outlines.)

- Law Enforcement Driving Simulators (LEDS)
- Force Options Simulator (FOS)
- Emergency Vehicle Operations Course (EVOC)
- Arrest and Control (ARCON)

Highlighted within the training are other topics necessary for effective police operations.

- Legislative Updates.
- Crowd Control.
- Community Oriented Policing.
- Racial Profiling.
- Biased Based Policing.
- Assessing and Managing Mentally Ill suspects
- Assessing and Managing Substance Using suspects
CULTURAL DIVERSITY AND LANGUAGE BARRIER TRAINING

The grand jury conducted a limited review of cultural diversity and language barrier training. The grand jury found all levels of training are pertinent to OIS, including culture issues.

Cultural Diversity Training

The topic of cultural diversity is one of the disciplines covered in the RTC facility through classes like Tactical Communication, Biased Based Policing, and Community Oriented Policing. Each class is taught with a PowerPoint presentation to better communicate the concept to the student. These presentations all include some level of group discussion to emphasize realism and help the student with realistic decision-making.

De-escalation is also part of the Cultural Diversity Training, and a critical part of the teaching. Skills training can become focused on the task, but the emphasis on de-escalation is never taken for granted, and always part of the training.

During the first five months of 2016, the department sent approximately 203 Officers and 10 staff members to the Museum of Tolerance in Beverly Hills. Staff attended 16 hours of training. (Fresno Police Department email response to request for information) The Museum of Tolerance is a human rights laboratory and educational center which, as well as being open to visitors, offers law enforcement professional development through a program entitled Tools for Tolerance. The program aims to assist law enforcement professionals explore the evolving role of law enforcement in a rapidly changing, increasingly diverse and complex society. Officer training is recorded in the POST Individual Training Activity record maintained by RTC.¹

¹ FPD Procedure 208 ensures that department members who are assigned to attend training, whether it is in-house or being offered at another agency or organization, are required to attend the entire course.
REGIONAL TRAINING CENTER CLASSES - 2016

**Use of Force**

<table>
<thead>
<tr>
<th>Number of Classes Taught</th>
<th>Hours of Instruction</th>
<th>Fresno PD Students</th>
<th>Total Curriculums</th>
</tr>
</thead>
<tbody>
<tr>
<td>208</td>
<td>2,733</td>
<td>1,579</td>
<td>16</td>
</tr>
</tbody>
</table>

**De-Escalation**

<p>| | | | |</p>
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<tr>
<th></th>
<th></th>
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<tbody>
<tr>
<td>53</td>
<td>330</td>
<td>692</td>
<td>5</td>
</tr>
</tbody>
</table>

**Biased Based/Community Oriented Policing/TAC Com**

<p>| | | | |</p>
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<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>108</td>
<td>216</td>
<td>684</td>
<td>3</td>
</tr>
</tbody>
</table>

**Language Barriers:**

Language barriers during incidents are addressed by use of a phone service for translating. Officers interviewed related that as long as translators are available, the system is very helpful.

The Fresno Police Officers Association’s (FPOA) Memorandum of Understanding (MOU) 2013-2017, reflects a section that encourages officers to participate in the Bilingual Certification Program. The program consists of a City administered examination process whereby members may apply for a bilingual examination, and if certified by the examiner, received bilingual premium pay for interpreting and translating. The employee must be recertified every five years. Bilingual certification examinations are conducted for Cambodian, Hmong, Laotian, Sign, Spanish, Armenian and Vietnamese languages. Certified members shall not refuse to interpret/translate while on paid status. Refusal shall result in appropriate disciplinary action. (FPOA MOU 2013-2017.)

One interviewee commented, “Cultural diversity training is also affected by recruitment and hires, although the demographics of the police department cannot be controlled through recruitment. Hiring is determined by who applies, who qualifies, and who passes the extensive background check.”
### 2016 Demographics of Officers Versus Community by Race/Ethnicity

<table>
<thead>
<tr>
<th>Race/Ethnicity*</th>
<th>Existing Officers</th>
<th>Applicants</th>
<th>New Hires</th>
<th>Total 12/31/16</th>
<th>Community</th>
</tr>
</thead>
<tbody>
<tr>
<td>Caucasian</td>
<td>52</td>
<td>33</td>
<td>42</td>
<td>49</td>
<td>30</td>
</tr>
<tr>
<td>Hispanic</td>
<td>35</td>
<td>46</td>
<td>47</td>
<td>37</td>
<td>47</td>
</tr>
<tr>
<td>African-American</td>
<td>6</td>
<td>8</td>
<td>6</td>
<td>6</td>
<td>8</td>
</tr>
<tr>
<td>Asian/Pacific Island</td>
<td>6</td>
<td>7</td>
<td>4</td>
<td>7</td>
<td>13</td>
</tr>
<tr>
<td>American Indian</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Not Specified</td>
<td>-</td>
<td>3</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Two or More</td>
<td>-</td>
<td>2</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

*Categories as defined and provided by FPD. Community numbers from U.S. Census Bureau

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**Reportable Response Resistance Project**

The following are excerpts from introductory letter of the Fresno Police Department Reportable Response Resistance Project, First Quarter 2016.

Data collection assures management oversight to closely monitor officers and help build public trust. In order to accomplish this, the department requires a review of each reportable use of force by field supervisors. Data is collected by the supervisors, forwarded through the department chain of command, and reviewed at each level of supervision, including Deputy Chiefs of Police.

The Department defines reportable force as any force when:

- Officers (including canines) use force and a person is injured; or,
- Officers strike a person with a body part (i.e. fist, foot, elbow, etc.) or any object (i.e. flashlight, clipboard, etc.); or,
- Officers use (not merely display) a department issued weapon (i.e. electronic immobilizing device, less-lethal impact projectile, chemical agents, baton, firearm, etc.).

After staff review of use of force is complete, the Professional Standards Unit reviews police reports and other force data for comparative analysis and composite reporting. This information is used to determine effectiveness and necessity of the force used, reliability of equipment, training needs, policy, and modifications.

In the first quarter of 2016, Fresno police officers applied force in 44 incidents while responding to 97,000 calls for service (CFS). This equates to officers applying force in 0.045% of all calls for service for this reporting period. (Fresno Police Department Reportable Response Resistance Project, First Quarter 2016.)

COMMUNITY POLICING

Several people interviewed suggested the FPD leadership and community leaders would like to see more community policing practices.

Community policing, in general, involves officers “walking the beat,” getting to know those in their area on a person-to-person basis. When this happens, there tends to be less fear of the unknown or fear of “strangers.” The purpose of this approach is to obtain community support and cooperation for protecting citizens and arresting criminals. This approach is also aimed at decreasing officer involved shootings and improving de-escalation techniques.

The grand jury has learned from conversations with police staff that in determining an officer’s performance of his duty, the department is moving from arrests made to incidents being resolved without arrests being necessary. One of the difficulties putting this into practice has been the reduced number of officers. The number of calls for service keeps the available officers on the move, which makes it hard to establish rapport with the citizens they serve.

The Chief’s Advisory Board was established more than 10 years ago to increase citizen participation in community and police interactions. A board member who was interviewed expressed his appreciation for this board and for being heard on a personal basis about the concerns encountered in his community. He felt that he was truly being listened to and his suggestions taken seriously. He has seen a very positive movement toward community trust of police officers as a result of the Advisory Board.

OFFICE OF INDEPENDENT REVIEW

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

The OIR submits a quarterly report to the City Manager, to whom he is responsible, ensuring that the constituents of the City of Fresno see transparency by all parties involved in the review of complaints.

The OIR also makes a complete review of the department’s policies and procedures, training, and all other operating aspects of the police department. Since its inception, the OIR has made several recommendations to the FPD. The OIR has recognized and commended the department for a drop in complaints and regarded this as an encouraging trend. (City of Fresno Office of Independent Review, Quarterly Report, Fourth Quarter 2016.)

The OIR suggests sanctity of life should be at the heart of everything FPD does.

**FPD USE OF FORCE POLICY**

_Graham v. Connor_ (1989) 490 U.S. 386, which sets the national standard for when deadly force may be utilized.

The decision to use force, including deadly force, must be made based solely on the facts known to the member at the time on the situation as it reasonably appeared to the member(s) directly involved in its application. Facts unknown to the member at the time, no matter how compelling, cannot be considered later in determining the reasonableness of the member’s decision to use force.

The following are excerpts from the Fresno Police Department Procedures Manual on Use of Force, effective date of December 21, 2016.

**REASONABLENESS OF FORCE**

It is the policy of the Department that officers shall use only that amount of force that reasonably appears necessary, given the facts and circumstances perceived by the officer at the time of the event, to accomplish a legitimate law enforcement purpose.
USE OF A FIREARM

An officer may resort to the use of a firearm when it is the level of force that is objectively reasonable and appears to be necessary. The intentional discharge of a firearm at an individual, with the exception of those firearms dedicated to less lethal munitions, constitutes deadly force. Deadly force is force that creates a substantial risk of causing death or serious bodily injury.

The department trains to a much higher standard for use of deadly force than objective reasonableness. Specifically, “can shoot v. must shoot” situations are covered in depth and reinforced with scenario based training via simulators and role-play exercises using simunitions (a thin bullet case filled with a colored, water-soluble chemical paste).

The following excerpts are from Roll Call Training Bulletin (RCTB) demonstrating sanctity of life is trained and reinforced by the department. This was being done even prior to OIR recommendations.

- RCTB 15-10
  - a reverence for human life should be a primary consideration when making tactical decisions … (dated Nov. 2, 2015).
- RCTB 16-08
  - De-escalation is the use of available options to gain compliance. Although circumstances do not always permit, the goal of the Fresno Police Department is the peaceful resolution of all calls when reasonably practical and feasible. When possible an officer should attempt to slow the pace of the call (dated May 19, 2016).
- RCTB 16-10
  - preservation of human life, the safety of the community, and officer safety must be of the highest priorities when officers respond to these calls … (dated Sept. 19, 2016).

OFFICER INVOLVED SHOOTINGS

Though few officers will be directly involved in a hostile shooting situation during their careers, many may experience the impact of an OIS. The effects of OIS events touch not only the officer involved, but the department and the community, as well. Due to the gravity of officer involved shootings, it is vitally important to ensure that the agency and its officers are prepared in advance for such an event.

Police Department Philosophy (300.1.1) states:

The Fresno Police Department maintains the highest regard for human life as we enforce the laws of the State of California and City of Fresno. Although the vast majority of persons contacted by law enforcement
officers are law abiding and/or compliant, increasingly, officers are called to intervene in potentially violent confrontations with individuals involved in criminal behavior. These encounters present serious threats to the safety of the community, law enforcement personnel and even to the subject themselves. Without intervention of law enforcement personnel in these instances, serious consequences such as injury or death can occur as a result.

Pursuant to Fresno Police Department Procedure 310, page 3, section D, paragraph 4, OIS Investigative Review:

Upon Closure of an administrative investigation where the OIS was determined to be within policy, involved officer(s) will meet with their Division Commander. The meeting is intended to discuss Department policies and procedures related to officer involved shootings and use of deadly force, and to provide feedback relevant to the investigation. The meeting will also serve as an opportunity for the involved officer(s) to provide feedback to the Division Commander regarding Department policies, procedures, and practices, as well as to discuss future training related to the use of deadly force.

OFFICER INVOLVED SHOOTINGS IN FRESNO

Information provided by the department for the period January 2000 to January 2017 reports all shootings, including death. There were 153 incidents in which shots were fired. Some incidents included more than one officer.
### OFFICER INVOLVED SHOOTINGS IN FRESNO

<table>
<thead>
<tr>
<th>Total number of officers with OIS</th>
<th>209</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number of shootings</td>
<td>153</td>
</tr>
<tr>
<td>Officers with more than one shooting</td>
<td></td>
</tr>
<tr>
<td>Shootings per officer</td>
<td>Number of officers</td>
</tr>
<tr>
<td>1</td>
<td>145</td>
</tr>
<tr>
<td>2</td>
<td>47</td>
</tr>
<tr>
<td>3</td>
<td>10</td>
</tr>
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<td>4</td>
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<td>6</td>
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<tr>
<td>7</td>
<td>1</td>
</tr>
</tbody>
</table>

Shootings refer to any time an officer discharges a weapon. A target may or may not have been hit when the weapon was discharged.

### FINDINGS

F1. The grand jury commends the Fresno Police Department for the acquisition of current technology, implementation of innovative communications programs, and the dissemination of timely, updated information to officers responding to calls for service.

F2. The FPD has excelled in the development and staffing of training facilities, policies and procedures, and adherence to POST standards.

F3. In review of the FPD policies and procedures for officer involved shootings, the grand jury finds that the FPD’s preparation and follow-up for handling incidents is very thorough.
F4. FPD starting salaries appear not to be competitive with nearby cities, which may impact recruitment and retention.

F5. Due to the shortage of personnel to provide coverage for officers, time to practice de-escalation skills they have learned appears insufficient.

F6. Opportunities to practice scenario based training at the RTC simulators on use of force situations appear to be too infrequent.

RECOMMENDATIONS

R1. Practice sessions for use of de-escalation techniques should be required on a quarterly basis, not just once every two years or after a shooting occurs (FPD Procedure 310).

R2. Salaries and benefits should be reviewed and increased allowing the department to attract more highly trained candidates and fill positions in a more timely manner.

REQUEST FOR RESPONSES

California Penal Code, section 933(c) requires comments from the public agency subject to the grand jury’s reviewing authority within 90 days of receipt of this report:

From the following individuals:
  - Chief of Police, Fresno Police Department
  - Mayor, City of Fresno
  - City Manager, City of Fresno

Regarding Findings F1-F6; and, Recommendations R1 and R2.

California Penal Code, section 933(c) allows for comments from elected officers and agency heads subject to the grand jury’s reviewing authority within 60 days of receipt of this report. The grand jury invites comments from:

  - City Council, City of Fresno

Regarding Findings F4 and F5; and, Recommendation R2.

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