



November 14, 2017

VIA U.S. MAIL

Attorney General Xavier Becerra
Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814-2919

RE: Fresno Police Department's use of force

Dear Attorney General Becerra:

I write on behalf of the American Civil Liberties Union of California to submit our findings and recommendations regarding the Fresno Police Department's use of force. On that basis, I ask that the Department of Justice Civil Rights Enforcement Section initiate a civil pattern or practice investigation of the Fresno Police Department.

The ACLU of California's report, Reducing Officer-Involved Shootings in Fresno, California, http://www.aclunc.org/docs/Reducing_Officer-Involved_Shootings_in_Fresno_CA.pdf, was developed in response to the numerous complaints we've received about the Fresno Police Department's use of force, and in particular its frequency of officer-involved shootings. This report relies on accounts from Fresno residents as well as publicly available records, news accounts, and documents obtained via multiple Public Records Acts requests.

Between 2001 and 2016, Fresno Police Department officers discharged their firearms directed at persons 146 times. That amounts to approximately 9 officer-involved shootings each year. By our count, at least 55 Fresno police officers have been involved in more than one such shooting. To put it differently, the Department's repeat shooters discharged their firearm in 62 percent of the Department's officer-involved shootings.

The Fresno Police Department's repeat shooter trend is especially troubling given the limited avenues for holding officers accountable within the Department. Although the Department has an early alert system to detect individual officer problems, the City of Fresno's own auditor has indicated that "this centerpiece of police accountability does not seem to be functioning effectively." Data generated by the system is not permanently tracked, and records pertaining to individual officer intervention are destroyed immediately after a Department commander discusses optional intervention methods with the officer. Furthermore, Department policy prohibits the process from being used to discipline an officer.

And although the Department collects Department-wide data to track its officers' use of force and identify where changes to policy or training are needed, that data is limited to "reportable" uses of force thereby omitting incidents that do not result in an injury or that those that involve an officer's display, but not use, of a weapon.

The Department's publicly available use-of-force policy fails to expressly require that the amount of force officers use be proportional, meaning necessary to overcome force, resistance, or risk of harm. Also, the policy fails to specify that deadly force should only be used to overcome a risk of imminent deadly harm to the officer or others.

Given these and the other findings included in this ACLU of California report, I ask that you initiate a civil pattern or practice investigation of the Fresno Police Department. If you have any questions or wish to discuss further, please contact me at (415) 621-2493 or ncoleman@aclunc.org. Thank you for your time and attention to this matter.

Sincerely,



Novella Coleman
American Civil Liberties Union Foundation
of Northern California, Staff Attorney

Encl: Reducing Officer-Involved Shootings in Fresno, California: Key Findings and Recommendations, also available at http://www.aclunc.org/docs/Fresno_Police_Shootings_OnePager.pdf.

cc: Angela Sierra, Office of the California Attorney General, 300 S. Spring Street, Los Angeles, CA 90013

Reducing Officer-Involved Shootings in Fresno, California

KEY FINDINGS



BETWEEN 2011 AND 2016, BLACK AND HISPANIC PEOPLE ACCOUNTED FOR 80% OF OFFICER-INVOLVED SHOOTING VICTIMS WHILE ONLY 52 PERCENT OF FRESNO'S POPULATION

Fresno Police Department's officer-involved shootings have a disparate impact on communities of color.

Between 2011 and 2016, Black and Hispanic people accounted for 80 percent of officer-involved shooting victims while only 52 percent of Fresno's population.

Residents of communities with the lowest median household income and the highest numbers of Black and Hispanic residents are at a much greater risk of exposure to officer-involved shootings.

Residents of Fresno's wealthiest and whitest communities are less likely to be exposed to an officer-involved shooting.

The Fresno Police Department policies enables officers to use lethal force too often and contributes to a culture of secrecy and lack of accountability.

The Fresno County District Attorney's Office hasn't filed criminal charges against an officer related to an officer-involved shooting in any of the 146 incidents between 2001 and 2016.

AT LEAST 55 FRESNO POLICE OFFICERS WERE INVOLVED IN MORE THAN ONE SHOOTING

THE FRESNO COUNTY DISTRICT ATTORNEY'S OFFICE HASN'T FILED CRIMINAL CHARGES AGAINST AN OFFICER RELATED TO AN OFFICER-INVOLVED SHOOTING IN ANY OF THE 146 INCIDENTS BETWEEN 2001 & 2016

The department has a pervasive repeat-shooter problem. The Department's repeat shooters have discharged their firearm in 62 percent of the 146 officer-involved shootings.

At least 55 Fresno police officers were involved in more than one shooting. Of those 55, seven officers were involved in three shootings, four officers were involved in four shootings, one officer was involved in five shootings, one officer was involved in six shootings, and one officer was involved in seven shootings.

The ACLU identified 19 lawsuits related to Fresno officer-involved shootings from 2008 through 2016.

HUMAN COST: Families of people shot and killed by the police filed at least eight wrongful death civil suits against the Fresno Police Department.

FINANCIAL COSTS: For the eight closed cases out of the 19 lawsuits, the city has spent \$1,790,358.65 in legal costs defending these lawsuits and \$3,510,000 on settlement awards. Together that amounts to over \$5.3 million.





RECOMMENDATIONS

Training

- ♦ Require continued evidence-based anti-bias training and de-escalation training.
- ♦ Collect data to identify training needs based on use-of-force practices or incidents that are not limited to those resulting in injury or involving a strike or use of a weapon.

Transparency

- ♦ Mandate proper and consistent use of body cameras.
- ♦ Adopt department policies that require the release of body camera footage for incidents of public importance.
- ♦ Create provisions for the collection and release of data available to the public without barriers.

Community Relations

- ♦ Emphasize hiring a diverse workforce representative of policed communities.
- ♦ Promote public participation in the Citizens' Public Safety Advisory Board; revise the bylaws to better reflect the will of Fresno's residents; provide a fair and transparent process for the selection of board members.

- ♦ Enhance community-based policing efforts through more community-based initiatives and partnerships with local stakeholders.
- ♦ Eliminate the use of social media that stigmatizes community members.

Accountability

- ♦ Revise department use-of-force policies to reflect non-force responses and to allow deadly force only when necessary; adopt de-escalation techniques as formal department policies.
- ♦ Expand the investigatory and enforcement powers of the Office of Independent Review and Citizens' Public Safety Advisory Board; require the board to comply with the Brown Act.
- ♦ Ensure the timely adjudication of investigation on officer-involved shootings.
- ♦ Monitor the effectiveness of the Early Alert System and require officers to implement the interventions proposed.

