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FRESNO COUNTY SUPERIOR COURT

By: T. Moua, Deputy

1 Katherine Lin (SBN 298765)  
2 Novella Coleman (SBN 281632)  
3 Linda Lye (SBN 215584)  
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12 OF NORTHERN CALIFORNIA

13 SUPERIOR COURT OF CALIFORNIA

14 COUNTY OF FRESNO

15 AMERICAN CIVIL LIBERTIES UNION OF  
16 NORTHERN CALIFORNIA,

17 Petitioner,

18 vs.

19 CITY OF FRESNO,  
20 FRESNO POLICE DEPARTMENT,

21 Respondents.

Case No. **17CECG04266**

**VERIFIED PETITION FOR WRIT OF  
MANDATE**

1 **INTRODUCTION**

2 1. This is a suit to enforce the California Public Records Act. On December 1, 2016,  
3 Petitioner American Civil Liberties Union of Northern California requested records, among other  
4 documents, relating to the Fresno Police Department’s training for: (1) use of force and discharge  
5 of firearms; (2) taking civilian complaints and investigating civilian complaints; (3) preventing or  
6 avoiding discrimination, including based on explicit or implicit, conscious or unconscious bias,  
7 when interacting with individuals and communities; (4) interacting with persons with known or  
8 suspected mental health issues; and (5) training required as a result of incidents involving use of  
9 force or officer-involved shootings. Petitioner requested these records due to community concerns  
10 about the Fresno Police Department’s use of force and its interactions with communities of color.  
11 The City of Fresno and the Fresno Police Department have failed to produce the requested training  
12 records. Petitioner therefore asks this court for a writ of mandate compelling the City of the  
13 Fresno and the Fresno Police Department to produce all requested records except those records, or  
14 parts thereof, that the Court holds are exempt from disclosure.

15 **PARTIES**

16 2. Petitioner American Civil Liberties Union of Northern California (“ACLU-NC”) is  
17 a nonprofit public interest organization with a longstanding goal of advancing civil rights and  
18 liberties, including open-government rights. The ACLU-NC is a member of the public with the  
19 right to enforce its request for records under Government Code §§ 6252, 6258.

20 3. Respondents the City of Fresno and the Fresno Police Department (“FPD”) are  
21 public agencies within the meaning of Government Code § 6252(d).

22 4. The City of Fresno and the FPD are in possession of the records sought.

23 **JURISDICTION AND VENUE**

24 5. This court has jurisdiction under Government Code §§ 6258, 6259, Code of Civil  
25 Procedure § 1085, and Article VI, § 10 of the California Constitution.

26 6. The records in question, or some portion of them, are situated in the County of  
27 Fresno, meaning that suit may be brought in this County. Cal. Gov’t Code § 6259.



1           14.     Fresno police officers discharge their firearms more frequently than other  
2 jurisdictions. Between 2001-2016, officers at the FPD discharged their firearms 146 times.  
3 ACLU of California, *Reducing Officer-Involved Shootings in Fresno, CA* (Nov. 14, 2017),  
4 [http://www.aclunc.org/docs/Reducing\\_Officer-Involved\\_Shootings\\_in\\_Fresno\\_CA.pdf](http://www.aclunc.org/docs/Reducing_Officer-Involved_Shootings_in_Fresno_CA.pdf) at 3. This  
5 is an average of approximately nine officer-involved shootings per year in Fresno, even though  
6 other jurisdictions can go years without a single officer-involved shooting. *Id.* at 5, 39. Many of  
7 the officer-involved shootings in Fresno also involve repeat shooters. At least fifty-five officers in  
8 the FPD have discharged their firearms more than once, and approximately seven officers have  
9 discharged their firearms four or more times. *Id.* at 3. In sum, 62% of the 146 officer involved-  
10 shootings in Fresno involved repeat shooters. *Id.*

11           15.     These shootings disproportionately affect some of the most vulnerable in Fresno:  
12 minorities and low-income individuals. For example, between 2011-2016, Black and Hispanic  
13 individuals accounted for 80% of officer-involved shooting victims in Fresno, even though they  
14 make up only about 52% of the population. *Id.* at 12. And Black individuals alone accounted for  
15 22% of officer-involved shooting victims, even though they make up only 8% of Fresno's  
16 population. *Id.* Additionally, officer-involved shootings occur more frequently in south Fresno,  
17 which has a low median household income and a heavy concentration of Black and Hispanic  
18 residents. *Id.* at 8-13. Many areas in the whiter and wealthier north Fresno had zero officer-  
19 involved shootings between 2006-2016. *Id.* at 10.

20           16.     Not surprisingly, the Fresno community has expressed great concern with the  
21 FPD's operations. Fresno community members are troubled with the idea that "brutal or  
22 undisciplined officers, prone to the use of excessive violence, might remain on the force." Ali  
23 Winston, *Fresno Cops Involved in Repeat Shootings Still on Duty*, ColorLines (Apr. 26, 2010),  
24 <https://www.colorlines.com/articles/fresno-cops-involved-repeat-shootings-still-duty>. They are  
25 distressed about the FPD's discriminatory behavior. *See* Andrea Castillo, *Fresno Law*  
26 *Enforcement Officials Vow to Address Racial Concerns*, The Fresno Bee (Aug. 25, 2015),  
27 <http://www.fresnobee.com/news/local/article32411406.html> (quoting local reverend D.J. Criner as  
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1 saying that “there are thousands upon thousands of African-American and brown Fresnans . . .  
2 who are living in constant fear every time a police car comes behind them, every time they are  
3 stopped or every time they see flashing lights”). Some Fresno civilians even “view the department  
4 as unlawful and illegitimate, perceptions that are detrimental to effective policing and public  
5 safety.” ACLU of California, *Reducing Officer-Involved Shootings in Fresno, CA* at 14.

6 17. Most recently, the community’s concerns with the FPD were tragically underscored  
7 by the fatal shooting of 19-year old Dylan Noble. In 2016, the FPD shot and killed Dylan when he  
8 was exiting a vehicle unarmed, sparking protests and the circulation of an online petition  
9 demanding the FPD release the body camera footage from the fatal shooting. Veronica Rocha,  
10 *Police Shooting of Unarmed Fresno Teen Sparks Protest and Calls for Answers*, L.A. Times (Jun.  
11 28, 2016), [http://www.latimes.com/local/lanow/la-me-ln-unarmed-teen-shot-fresno-20160628-](http://www.latimes.com/local/lanow/la-me-ln-unarmed-teen-shot-fresno-20160628-snap-htmlstory.html)  
12 [snap-htmlstory.html](http://www.latimes.com/local/lanow/la-me-ln-unarmed-teen-shot-fresno-20160628-snap-htmlstory.html).

13 18. Despite these overwhelming concerns, however, the FPD has historically operated  
14 within a culture of secrecy, making it impossible for Fresno community members to hold the FPD  
15 accountable and institute change. The FPD allows its officers discretion when activating a body  
16 camera to ensure officer safety, and the decision of whether to release body camera videos is made  
17 solely by the Chief of Police or a designee. ACLU of California, *Reducing Officer-Involved*  
18 *Shootings in Fresno, CA* at 20. The FPD also has no formal policy for collecting or disseminating  
19 data to the public. *Id.* at 21. The data that is disseminated is also limited and does not include  
20 Fresno officers’ interactions with civilians when the outcome does not result in arrest. *Id.*

21 19. Although Fresno established the Office of Independent Review in 2009 to  
22 strengthen public trust in the FPD, the Office has also been unable to address the Fresno  
23 community’s concerns with the FPD. *Id.* at 15. In 2016, after the Office recommended that the  
24 FPD adopt new officer trainings to reduce the number of officer-involved shootings, Fresno Police  
25 Chief Jerry Dyer stated that the current training was sufficient and declined to adopt the Office’s  
26 recommendations. *Id.* at 27.

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1           20.     And even though FPD officials have stated that Fresno officers must undergo  
2 training in areas like firearms, bias, and mental health, the FPD has still not made officer training  
3 materials available to the public. *See id.* at 17. The FPD’s lack of transparency deprives Fresno  
4 community members of the ability to independently assess the FPD’s vague assurances that they  
5 are training their officers adequately on important issues like use of force and anti-discrimination.

6           21.     Unless and until the FPD is ordered to reveal critical information about its  
7 operations, such as the materials used in officer training, the FPD will be allowed to continue to  
8 maintain its culture of secrecy. Greater transparency will inform urgent public debate and  
9 potential reform efforts on the important issue of officer-involved shootings.

10           **B.     The City of Fresno and the Fresno Police Department have withheld training**  
11           **records.**

12           22.     On December 1, 2016, ACLU-NC submitted a PRA request to the FPD for records  
13 related to officers’ use of force and officer accountability (“the PRA request”). The requests at  
14 issue here are for training-related records regarding: (1) use of force and discharge of firearms; (2)  
15 taking civilian complaints and investigating civilian complaints; (3) preventing or avoiding  
16 discrimination, including based on explicit or implicit, conscious or unconscious bias, when  
17 interacting with individuals and communities; (4) interacting with persons with known or  
18 suspected mental health issues; and (5) training required as a result of incidents involving use of  
19 force or officer-involved shootings. Exhibit A (Requests 2, 3, 5, 9, and 11).

20           23.     On January 6, 2017, Defendants sent their first substantive response. It withheld  
21 training records, stating that “disclosure of [such] information . . . may compromise officer safety  
22 or tactics and interfere with law enforcement,” citing Government Code §§ 6254(f) and 6255.  
23 Additionally, Defendants stated that disclosure of records related to training, required as a result of  
24 incidents involving use of force or officer-involved shootings, would violate the Police Officer  
25 Bill of Rights. Exhibit B.

26           24.     The records that Defendants did provide consist solely of policies that reference  
27 training, and links to three FPD webpages: (1) the Records and Reports webpage, which  
28 references officer training and contains links to reports and data that reference training; (2) the

1 Internal Affairs webpage, which references officer training; and (3) the FPD Policy Manual, which  
2 contains policies that reference training and a one-page Training Policy and a three-page Field  
3 Training Officer Program Policy.<sup>1</sup>

4 25. Defendants did not provide any other training records but additional training  
5 records clearly exist. This is evidenced by Defendants' acknowledgment that they are withholding  
6 training records, as well as documents produced or identified by Defendants. For example, the  
7 three-page Field Training Officer Program Policy refers to a Field Training Officer Manual,  
8 program timetables, Daily Observation Reports, written examinations, evaluations, and certificates  
9 of completion, none of which have been produced. *See* Fresno Police Department, *Policy Manual*  
10 (Oct. 1, 2017), [https://www.fresno.gov/police/wp-content/uploads/sites/5/2016/09/FPD-Policy-](https://www.fresno.gov/police/wp-content/uploads/sites/5/2016/09/FPD-Policy-Manual.pdf)  
11 [Manual.pdf](https://www.fresno.gov/police/wp-content/uploads/sites/5/2016/09/FPD-Policy-Manual.pdf) at 169-171. The FPD's Policy Manual requires that recommendations be made  
12 regarding training needs, such as records related to the Early Alert System Committee or the  
13 Administrative Division Commander's training recommendations; these, too, have not been  
14 produced. *Id.* at 260-61.

15 26. On January 12, 2017, Defendants provided supplemental responses to the PRA  
16 request, but continued to withhold any additional training records. Exhibit C.

17 27. ACLU-NC Staff Attorney Novella Coleman also engaged in oral and email  
18 communications with Chief Dyer in an attempt to receive additional officer training records.  
19 During these communications Chief Dyer invited Ms. Coleman to attend and view FPD training,  
20 including participating in a police 'ride-along,' but also stated that he did not think information  
21 about FPD training should be shared with the larger public. Ms. Coleman's efforts were  
22 unsuccessful and she neither attended a FPD training session nor received additional training  
23 records from Chief Dyer.

24 28. On May 22, 2017, Ms. Coleman attended a meeting with Fresno Police Department  
25 Deputy Chief Robert Nevarez, Lieutenant Mindy Casto, Sergeant Dennis Lowry, and attorneys

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27 <sup>1</sup> The linked FPD Policy Manual appears to have been updated since the PRA request was sent.  
28 Petitioner is unaware if the Manual, as well as the FPD's Records and Reports and Internal  
Affairs webpages, will be continually updated throughout this litigation.

1 Larry Donaldson and Francine Kanne. In this meeting, Ms. Coleman again asked for the training-  
2 related information requested in the PRA request. Deputy Chief Nevarez, Lieutenant Casto, and  
3 Sergeant Lowry verbally disclosed some information about the training officers receive. Ms.  
4 Coleman also received two January 23, 2017 FPD reports that reference officer training: a Bias-  
5 Based Profiling Review and a Reportable Response to Resistance Report. The City and the FPD  
6 did not disclose training records referenced in the reports, such as the Roll Call Training Bulletins  
7 referenced in the Reportable Response to Resistance Report. They also discussed use of force  
8 reports, but Ms. Coleman did not learn any new information regarding the location of those reports  
9 beyond the links already disclosed on January 6, 2017. Since that meeting, Defendants have not  
10 produced any additional training-related records.

11 29. On November 14, 2017, the ACLU-NC reiterated its position that the FPD's failure  
12 to disclose training-related records fails to comply with the PRA. The ACLU-NC sent a letter to  
13 the Fresno City Council, Fresno Mayor Lee Brand, and Chief Dyer informing them of the recent  
14 publication of the ACLU of California's report on officer-involved shootings in Fresno, entitled  
15 *Reducing Officer-Involved Shootings in Fresno, California*. Exhibit D. The letter requested that  
16 the FPD implement the report's proposed recommendations, one of which was that the FPD  
17 release training materials in compliance with PRA. Neither the City nor the FPD has responded to  
18 the ACLU-NC's November 14, 2017 correspondence.

19 **C. Other Jurisdictions, and even the California Commission on Peace Officer**  
20 **Standards and Training, make training materials public.**

21 30. Even though the City and the FPD claim that releasing additional training records  
22 will compromise officer safety and tactics, or interfere with law enforcement, California's own  
23 state agency tasked with overseeing the training of police departments in California has publicly  
24 posted officer training documents that describe training curriculum and content. The California  
25 Commission on Peace Officer Standards and Training ("POST") website contains training  
26 documents on a variety of issues, including use of force, mental health, and anti-discrimination.  
27 *See Commission on Peace Officer Standards and Training, Mental Health Training and*  
28 *Resources, <https://www.post.ca.gov/mental-health-training-and-resources.aspx> (last visited Dec. 8,*



1 2017), Commission on Peace Officer Standards and Training, *Modular Format – Module III*  
2 *Training Specifications*, [https://www.post.ca.gov/modular-format-module-iii-training-](https://www.post.ca.gov/modular-format-module-iii-training-specifications.aspx)  
3 [specifications.aspx](https://www.post.ca.gov/modular-format-module-iii-training-specifications.aspx) (last visited Dec. 8, 2017) (linking to downloadable training documents on  
4 issues including use of force, arrest and control, firearms/chemical agents, policing in the  
5 community, and cultural diversity/discrimination). The FPD has stated that it uses training  
6 courses certified by POST whenever possible, including that FPD trainees are those who have  
7 successfully completed a Basic Academy approved by POST. *See* Fresno Police Department,  
8 *Policy Manual*, [https://www.fresno.gov/police/wp-content/uploads/sites/5/2016/09/FPD-Policy-](https://www.fresno.gov/police/wp-content/uploads/sites/5/2016/09/FPD-Policy-Manual.pdf)  
9 [Manual.pdf](https://www.fresno.gov/police/wp-content/uploads/sites/5/2016/09/FPD-Policy-Manual.pdf) at 23, 169. It is unclear whether any of the training materials on POST’s website are  
10 used by the FPD because the FPD has not disclosed to Petitioner any materials used in officer  
11 training.

12 31. Similarly, the San Francisco Police Department has posted training videos directly  
13 onto YouTube. San Francisco Police Department, *San Francisco Police Releases Training Video*,  
14 YouTube (Feb. 27, 2014), <https://www.youtube.com/watch?v=i8qY1zi0tzc>. San Francisco Police  
15 Department, *SFPD Training Video: Children of Arrested Parents*, YouTube (Apr. 30, 2015),  
16 <https://www.youtube.com/watch?v=ha7X0V98oaQ> (writing in the video description that the  
17 training video was released “[i]n [the San Francisco Police Department’s] continuing efforts to  
18 remain transparent” and that “[t]he video offers the public a glimpse of our on-going training  
19 process”).

20 32. Police commissions have also publicly posted documents that contain descriptions  
21 of materials used in training by police departments across the nation. *See* Los Angeles Police  
22 Commission, *Comparative Review of Selected Agency Policies, Investigations, and Training on*  
23 *the Use of Force: OIG Final Report* (Oct. 6, 2016),  
24 [https://docs.wixstatic.com/ugd/b2dd23\\_753a586ac64546a8a2f85555eab0e324.pdf](https://docs.wixstatic.com/ugd/b2dd23_753a586ac64546a8a2f85555eab0e324.pdf) at 21-30  
25 (describing use of force officer training for Los Angeles Police Department, Dallas Police  
26 Department, Las Vegas Metropolitan Police Department, Metropolitan Police Department in  
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1 Washington, D.C., and San Diego Police Department, including descriptions of training scenarios  
2 and training curriculum).

3 33. The City's and the FPD's claim that disclosing additional training records would  
4 compromise law enforcement is also belied by the many examples of police departments that  
5 willingly invite the press to officer training, including allowing them to record footage of the  
6 training sessions and broadcast them to the public. The San Francisco Police Department has  
7 invited reporters to participate in officer training, including recording video of the training. Mark  
8 Matthews, *Take an Inside Look at Training During San Francisco Police Department's Police*  
9 *Academy*, NBC Bay Area (Sept. 11, 2017), [https://www.nbcbayarea.com/news/local/SFPD-](https://www.nbcbayarea.com/news/local/SFPD-Academy-Holds-Annual-Training-on-Use-of-Force-443826053.html)  
10 [Academy-Holds-Annual-Training-on-Use-of-Force-443826053.html](https://www.nbcbayarea.com/news/local/SFPD-Academy-Holds-Annual-Training-on-Use-of-Force-443826053.html). San Francisco is not an  
11 outlier—police departments across the nation have invited press to officer trainings and allowed  
12 them to record footage. See Ali Monsen, *New Police Training Addresses Use-of-Force,*  
13 *Transparency with Public*, Good 4 Utah (Jan. 10, 2017), [http://www.good4utah.com/news/local-](http://www.good4utah.com/news/local-news/new-police-training-addresses-use-of-force-transparency-with-public/638932115)  
14 [news/new-police-training-addresses-use-of-force-transparency-with-public/638932115](http://www.good4utah.com/news/local-news/new-police-training-addresses-use-of-force-transparency-with-public/638932115) (allowing  
15 reporter to attend and record video of police training at Draper City Police Department in Utah),  
16 Kiersten Nuñez, *Police Put Reporters Through Use of Force Training to Show Public What*  
17 *Officers Face*, Fox 13 Salt Lake City (Feb. 26, 2015), [http://fox13now.com/2015/02/26/police-](http://fox13now.com/2015/02/26/police-put-reporters-through-use-of-force-training-to-show-public-what-police-face/)  
18 [put-reporters-through-use-of-force-training-to-show-public-what-police-face/](http://fox13now.com/2015/02/26/police-put-reporters-through-use-of-force-training-to-show-public-what-police-face/) (allowing reporter to  
19 participate in and record video of police training in Salt Lake City, Utah).

20 34. These examples—and in particular the training materials posted online by the San  
21 Francisco Police Department and POST—radically undermine Defendants' argument that release  
22 of additional training-related records may compromise officer safety, tactics, or interfere with law  
23 enforcement.

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1 **FIRST CAUSE OF ACTION**

2 **For Writ of Mandate for Violation of the California Public Records Act, Gov't Code**  
3 **§§ 6250-6276.48, Code Civ. Proc. § 1085, & Article I, § 3 of the California Constitution**

4 35. Petitioner incorporates herein by reference the allegations of paragraphs 1 through  
5 34 above, as if set forth in full.

6 36. The PRA requires that the government disclose public records promptly and  
7 without delay.

8 37. The City of Fresno's and the FPD's failure to provide all non-exempt training-  
9 related records that the ACLU-NC requested on December 16, 2016 violates this duty to provide  
10 public records promptly and without delay.

11 WHEREFORE, Petitioner prays as follows:

12 1. That the Court issue a writ of mandate directing the City of Fresno and the Fresno  
13 Police Department to provide Petitioner ACLU-NC with all the training-related records requested  
14 except those records, or parts thereof, that the Court determines may lawfully be withheld, or an  
15 order to show cause why it should not do so;

16 2. That Petitioner be awarded its attorneys' fees and costs;

17 3. For such other and further relief as the Court deems proper and just.

18 Dated:  
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21 By: 

22 KATHERINE LIN  
23 Attorney for Petitioner ACLU-NC  
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VERIFICATION

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I, Shayna Gelender, am the Managing Director at the American Civil Liberties Union of Northern California. I have read this verified petition for writ of mandate in the matter of American Civil Liberties Union of Northern California v. The City of Fresno and the Fresno Police Department and am informed, and do believe, that the matters herein are true. On that ground, I allege that the matters stated herein are true. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: 12-11-17



Shayna Gelender

# **EXHIBIT A**



December 1, 2016

**VIA U.S. MAIL**

Fresno Police Department  
Attention: Records Bureau  
P.O. Box 1271  
Fresno, CA 93715-1271

**RE: Request for Public Records**

To Whom It May Concern:

I am writing on behalf of the American Civil Liberties Union of Northern California (ACLU-NC). Under the California Public Records Act (PRA),<sup>1</sup> I request copies of records containing the following information:

1. For each Fresno Police Department officer-involved shooting from 2001 to the present:
  - a. Names and demographic information<sup>2</sup> of the officers involved in the shooting including any information identifying which officer(s) discharged their firearm;
  - b. Rank, assignment and salary at the time of the shooting and presently for officers involved in the shooting;
  - c. Descriptions of events leading up to and following each officer-involved shooting, including but not limited to police reports, incident reports, inquiries by the public requesting police officer presence, including any documents relating to the health outcomes of any persons shot;
  - d. Names and demographic information<sup>3</sup> of all victims and suspects related to Fresno Police Department officer-involved shootings;
2. All policies, procedures, guidance or trainings relating to use of force and discharge of firearms;
3. All training, policies, procedures and practices regarding taking civilian complaints and investigating civilian complaints;
4. Number of complaints made to the department related to allegations of use of force from 2001 to the present;

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<sup>1</sup> Gov. Code §§ 6250 – 6277.

<sup>2</sup> Desired officer demographic information includes but is not limited to the officer's age, race, gender, and years employed by the Fresno Police Department.

<sup>3</sup> Desired victim and suspect demographic information includes but is not limited to age, race, gender, and known or suspected mental health concerns pertaining to the incident.

5. All policies, procedures, guidance or trainings provided to officers relating to preventing or avoiding discrimination, including based on explicit or implicit, conscious or unconscious bias, when interacting with individuals and communities;
6. Number of complaints made to the department related to allegations of racial bias from 2001 to the present;
7. Number of complaints made to the department related to allegations of unlawful detention from 2001 to the present;
8. Number of complaints made to the department related to allegations of unlawful searches from 2001 to the present;
9. All policies, procedures, guidance or training relating to officers interacting with persons with known or suspected mental health issues;
10. All policies, procedures and practices regarding investigation of incidents involving use of force or officer-involved shootings;
11. All policies, procedures and practices regarding officer discipline or training required as a result of incidents involving use of force or officer-involved shootings;
12. All Fresno Police Department actual annual budgets including expenditures from 2001 to the present;
13. Number of officers disciplined for incidents arising from officer use of force, as well as demographic information about the officers, including but not limited to their age, race, gender, and years employed by the police department from 2001 to the present;
14. Number of officers disciplined for incidents arising from officer racial bias, racial profiling, or use of racial slurs, as well as demographic information about the officers, including but not limited to their age, race, gender, and years employed by the police department from 2001 to the present;
15. Number of officers disciplined for incidents arising from improper detentions, as well as demographic information about the officers, including but not limited to their age, race, gender, and years employed by the police department from 2001 to the present;
16. Number of officers disciplined for incidents arising from improper searches, as well as demographic information about the officers, including but not limited to their age, race, gender, and years employed by the police department from 2001 to the present.

This request applies to all documents in your agency's possession, including emails, video and audiotapes, and other electronic records.<sup>4</sup>

If specific portions of any documents are exempt from disclosure, please provide the non-exempt portions.<sup>5</sup> Also, please provide complete documents, even if some parts of them do not appear to be responsive to this request.

Please respond to this request within ten days, either by providing all the requested records or by providing a written response setting forth the legal authority on which you rely in withholding or redacting any document and stating when the documents will be made available.<sup>6</sup> In your reply, please indicate if there are no responsive records to a particular request.

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<sup>4</sup> Gov. Code § 6252(e).

<sup>5</sup> Gov. Code § 6253(a).

<sup>6</sup> Gov. Code §§ 6253(c), 6255.

If I can provide any clarification that will help identify responsive documents or focus this request,<sup>7</sup> please contact me at (415) 293-6314 or ncoleman@aclunc.org. Please note that the PRA allows a member of the public to request records by describing their content, rather than asking for specific documents by name; an agency that receives such a request must “search for records based on criteria set forth in the search request.”<sup>8</sup> I appreciate that this is a broad request, and I would be happy to work with you to narrow it to ensure that we receive the information we seek in a timely manner, and that your staff do not spend excess time locating and reviewing duplicative or non-responsive records.

Because the ACLU-NC is a nonprofit civil rights organization, I ask that you waive any fees. I also request that any records maintained in electronic format be provided in that same format, to avoid copying costs.<sup>9</sup> However, should you be unable to do so, the ACLU-NC will reimburse your agency for the direct costs of copying these records (if your agency elects to charge for copying) plus postage. In that event, if the anticipated cost is more than \$50, please provide an estimate of cost per page and numbers of pages per numbered request above before incurring copying costs.<sup>10</sup>

Thank you for your time and attention to this matter.

Sincerely,



Novella Coleman  
Staff Attorney

cc: Douglas Sloan, City Attorney, douglas.sloan@fresno.gov

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<sup>7</sup> Gov. Code § 6253.1.

<sup>8</sup> *California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 165-66.

<sup>9</sup> Gov. Code § 6253.9.

<sup>10</sup> In 2015 and earlier this year the ACLU of Southern California previously submitted PRA requests to the department seeking similar information but the department failed to provide responsive records. With respect to the 2016 request, the department acknowledged receipt of the request but failed to provide records without an advance commitment to pay unspecified costs of production.



# **EXHIBIT B**

1 DOUGLAS T. SLOAN, City Attorney  
CITY OF FRESNO  
2 By: Francine M. Kanne, Chief Assistant City Attorney (#139028)  
2600 Fresno Street, Room 2031  
3 Fresno, California 93721-3602  
4 Telephone: (559) 621-7500  
Facsimile: (559) 488-1084

5 Attorneys for CITY OF FRESNO  
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10 RE:

11 **ADDITIONAL RECORDS**  
12 **PERTAINING TO THE FRESNO**  
**POLICE DEPARTMENT**

)  
**RESPONSE TO PUBLIC RECORDS ACT**  
**REQUEST FOR DOCUMENTS (Govt.**  
**Code §6250, et seq.)**

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17 The City of Fresno ("City") responds to a request pursuant to the California Public Records  
18 Act (Govt. Code §6250, et seq.) by Novella Coleman, Staff Attorney, ACLU of Northern  
19 California, seeking **additional records pertaining to the City's Police Department**, as follows:

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1           **Request No. 1 – “For each [City] Police Department officer-involved shooting from**  
2 **2001 to the present[;] a) Names and demographic information of the officers involved in the**  
3 **shooting including any information identifying which officer(s) discharged from their**  
4 **firearm; b) Rank, assignment and salary at the time of the shooting and presently for**  
5 **officers involved in the shooting; c) Descriptions of events leading up to and following each**  
6 **officer-involved shooting, including but not limited to police reports, incident reports,**  
7 **inquiries by the public requesting police officer presence, including any documents relating**  
8 **to the health outcomes of any persons shot; d) Names and demographic information of all**  
9 **victims and suspects related to [City] Police Department officer-involved shootings”:** The  
10 City objects to this request on grounds: (a) the City does not maintain its records in a manner that  
11 would compile officers’ “demographic information” or the other information requested (*Haynie*  
12 *v. Superior Court* (2001) 26 Cal.4th 1061); (b) it seeks documents that are part of investigations  
13 conducted by the City’s Police Department (Govt. Code § 6254(f)); (c) it seeks disclosure of  
14 records containing information from anticipated and/or pending litigation (Govt. Code §  
15 6254(b)); (d) it seeks documents and information protected by the third party right to privacy  
16 (Govt. Code § 6254(k)); (e) it seeks disclosure of information from employees’ personnel files,  
17 which may constitute an unwarranted invasion of those employees’ privacy (Govt. Code §  
18 6254(c)); and (f) it seeks records regarding internal affairs investigations protected by the Police  
19 Officer’s Bill of Rights (“POBR”). Without waiving these objections and subject thereto, the  
20 City produces potentially responsive documents, with privileged information withheld, attached  
21 hereto, as Exhibits “A,” “B,” and “C.” Please note the City’s Police Department does not  
22 maintain records dating back to January 1, 2001, for all the information requested and is  
23 currently reviewing archived records to determine if there are other responsive documents. A  
24 supplemental response to this request will be provided as soon as possible.

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1           **Request No. 2 – “All policies, procedures, guidance or trainings relating to use of**  
2 **force and discharge of firearms”:** The City objects to this request to the extent it seeks  
3 disclosure of information that may compromise officer safety or tactics and interfere with law  
4 enforcement. (Govt. Code §§ 6254(f) and 6255.) Without waiving these objections and subject  
5 thereto, the City produces potentially responsive documents, with privileged information  
6 withheld, attached hereto, as Exhibits “D,” “E,” “F,” “G,” “H,” and “I.” Please note the City’s  
7 Police Department also posts potentially responsive information on the City’s website at:  
8 “<https://www.fresno.gov/police/wp-content/uploads/sites/5/2016/09/FPD-Policy-Manual.pdf>”  
9 and “<https://www.fresno.gov/police/records-reports/>”.

10           **Request No. 3 – “All training, policies, procedures and practices regarding taking**  
11 **civilian complaints and investigating civilian complaints”:** The City objects to this request to  
12 the extent it seeks disclosure of information that may compromise officer safety or tactics and  
13 interfere with law enforcement. (Govt. Code §§ 6254(f) and 6255.) Without waiving these  
14 objections and subject thereto, the City produces potentially responsive documents, with  
15 privileged information withheld, attached hereto, as Exhibits “H,” “J,” and “L.” Please note the  
16 City’s Police Department also posts potentially responsive information on the City’s website at:  
17 “<https://www.fresno.gov/police/wp-content/uploads/sites/5/2016/09/FPD-Policy-Manual.pdf>”  
18 and “<https://www.fresno.gov/police/services-special-units/internal-affairs/>”.

19           **Request No. 4 – “Number of complaints made to the department related to**  
20 **allegations of use of force from 2001 to the present”:** The City objects to this request on  
21 grounds it is overbroad as to time and unduly burdensome. (*Community Youth Athletic Center v.*  
22 *City of National City* (2013) 220 Cal.App.4th 1385, 1425.) The Department does not maintain all  
23 records dating back to 2001, nor does the Department maintain its records by the specified  
24 subject matter, “allegations of use of force.” Without waiving these objections and subject  
25 thereto, the City’s Police Department is still searching for potentially responsive records from  
26 2007 to 2016. A supplemental response to this request will be provided as soon as possible.

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1           **Request No. 5 – “All policies, procedures, guidance or trainings provided to officers**  
2 **relating to preventing or avoiding discrimination, including based on explicit or implicit,**  
3 **conscious or unconscious bias, when interacting with individuals and communities”:** The  
4 City objects to this request to the extent it seeks disclosure of information that may compromise  
5 officer safety or tactics and interfere with law enforcement. (Govt. Code §§ 6254(f) and 6255.)  
6 Without waiving these objections and subject thereto, the City produces potentially responsive  
7 documents, with privileged information withheld, attached hereto, as Exhibits “K,” “M,” “N,”  
8 “O,” “P,” “Q,” “R,” and “W.” Please note the City’s Police Department also posts potentially  
9 responsive information on the City’s website at: “[https://www.fresno.gov/police/wp-](https://www.fresno.gov/police/wp-content/uploads/sites/5/2016/09/FPD-Policy-Manual.pdf)  
10 [content/uploads/sites/5/2016/09/FPD-Policy-Manual.pdf](https://www.fresno.gov/police/wp-content/uploads/sites/5/2016/09/FPD-Policy-Manual.pdf)”.

11           **Request No. 6 – “Number of complaints made to the department related to**  
12 **allegations of racial bias from 2001 to the present”:** The City objects to this request on  
13 grounds it is overbroad as to time and unduly burdensome. (*Community Youth Athletic Center v.*  
14 *City of National City* (2013) 220 Cal.App.4th 1385, 1425.) The Department does not maintain all  
15 records dating back to 2001, nor does the Department maintain its records by the specified  
16 subject matter, “allegations of racial bias.” Without waiving these objections and subject thereto,  
17 the City’s Police Department is still searching for potentially responsive records from 2007 to  
18 2016. A supplemental response to this request will be provided as soon as possible.

19           **Request No. 7 – “Number of complaints made to the department related to**  
20 **allegations of unlawful detention from 2001 to the present”:** The City objects to this request  
21 on grounds it is overbroad as to time and unduly burdensome. (*Community Youth Athletic Center*  
22 *v. City of National City* (2013) 220 Cal.App.4th 1385, 1425.) The Department does not maintain  
23 all records dating back to 2001, nor does the Department maintain its records by the specified  
24 subject matter, “allegations of unlawful detention.” Without waiving these objections and subject  
25 thereto, the City’s Police Department is still searching for potentially responsive records from  
26 2007 to 2016. A supplemental response to this request will be provided as soon as possible.

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1           **Request No. 8 – “Number of complaints made to the department related to**  
2 **allegations of unlawful searches from 2001 to the present”**: The City objects to this request  
3 on grounds it is overbroad as to time and unduly burdensome. (*Community Youth Athletic Center*  
4 *v. City of National City* (2013) 220 Cal.App.4th 1385, 1425.) The Department does not maintain  
5 all records dating back to 2001, nor does the Department maintain its records by the specified  
6 subject matter, “allegations of unlawful searches.” Without waiving these objections and subject  
7 thereto, the City’s Police Department is still searching for potentially responsive records from  
8 2007 to 2016. A supplemental response to this request will be provided as soon as possible.

9           **Request No. 9 – “All policies, procedures, guidance or training relating to officers**  
10 **interacting with persons with known or suspected mental health issues”**: The City objects to  
11 this request to the extent it seeks disclosure of information that may compromise officer safety or  
12 tactics and interfere with law enforcement. (Govt. Code §§ 6254(f) and 6255.) Without waiving  
13 these objections and subject thereto, the City produces potentially responsive documents, with  
14 privileged information withheld, attached hereto, as Exhibits “O,” “S,” and “T.” Please note the  
15 City’s Police Department also posts potentially responsive information on the City’s website at:  
16 “<https://www.fresno.gov/police/wp-content/uploads/sites/5/2016/09/FPD-Policy-Manual.pdf>”.

17           **Request No. 10 – “All policies, procedures and practices regarding investigation of**  
18 **incidents involving use of force or officer-involved shootings”**: The City objects to this  
19 request to the extent it seeks disclosure of information that may compromise officer safety or  
20 tactics and interfere with law enforcement. (Govt. Code §§ 6254(f) and 6255.) Without waiving  
21 these objections and subject thereto, the City produces potentially responsive documents, with  
22 privileged information withheld, attached hereto, as Exhibits “D,” “E,” “F,” “G,” “H,” “I,” “U,”  
23 and “V.” Please note the City’s Police Department also posts potentially responsive information  
24 on the City’s website at: “[https://www.fresno.gov/police/wp-content/uploads/sites/5/2016/09/](https://www.fresno.gov/police/wp-content/uploads/sites/5/2016/09/FPD-Policy-Manual.pdf)  
25 [FPD-Policy-Manual.pdf](https://www.fresno.gov/police/wp-content/uploads/sites/5/2016/09/FPD-Policy-Manual.pdf)”.

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1           **Request No. 11 – “All policies, procedures and practices regarding officer discipline**  
2 **or training required as a result of incidents involving use of force or officer-involved**  
3 **shootings”**: The City objects to this request to the extent it seeks disclosure of information that  
4 may compromise officer safety or tactics, interfere with law enforcement, and violate POBR.  
5 (Govt. Code §§ 6254(f) and 6255.) Without waiving these objections and subject thereto, the  
6 City produces potentially responsive documents, with privileged information withheld, attached  
7 hereto, as Exhibits “D,” “G,” “U,” and “V.” Please note the City’s Police Department also posts  
8 potentially responsive information on the City’s website at: “[https://www.fresno.gov/police/wp-](https://www.fresno.gov/police/wp-content/uploads/sites/5/2016/09/FPD-Policy-Manual.pdf)  
9 [content/uploads/sites/5/2016/09/ FPD-Policy-Manual.pdf](https://www.fresno.gov/police/wp-content/uploads/sites/5/2016/09/FPD-Policy-Manual.pdf)”.

10           **Request No. 12 – “All Fresno Police Department actual annual budgets including**  
11 **expenditures from 2001 to the present”**: After a diligent search and reasonable inquiry of the  
12 City’s records, the City’s Finance Department, which includes the Budget and Management  
13 Studies Division, posts potentially responsive information on the City’s website for fiscal years  
14 2013 to the present at: “[https://www.fresno.gov/finance/wp-content/uploads/sites/11/2016/12/](https://www.fresno.gov/finance/wp-content/uploads/sites/11/2016/12/FULLFY2017AdoptedBudget.pdf)  
15 [FULLFY2017AdoptedBudget.pdf](https://www.fresno.gov/finance/wp-content/uploads/sites/11/2016/12/FULLFY2017AdoptedBudget.pdf)”, “<https://www.fresno.gov/finance/budget/#tab-5>”, “[https://](https://www.fresno.gov/finance/financial-reports/)  
16 [www.fresno.gov/finance/financial-reports/](https://www.fresno.gov/finance/financial-reports/)”, and “[https://www.fresno.gov/finance/](https://www.fresno.gov/finance/financial-reports/#tab-2) [financial-](https://www.fresno.gov/finance/financial-reports/#tab-2)  
17 [reports/#tab-2](https://www.fresno.gov/finance/financial-reports/#tab-2)”. The City is still searching for potentially responsive documents for fiscal years  
18 2000 to 2012. If additional, potentially responsive documents exist, a further response to this  
19 request will be provided as soon as possible.

20           **Request No. 13 – “Number of officers disciplined for incidents arising from officer**  
21 **use of force, as well as demographic information about the officers, including but not**  
22 **limited to their age, race, gender, and years employed by the police department from 2001**  
23 **to the present”**: The City objects to and is unable to respond to this request on grounds the City  
24 does not maintain its records in a manner that would compile the information requested, the  
25 “number of officers disciplined for use of force” and the officers’ “demographic information.”  
26 (*Haynie v. Superior Court* (2001) 26 Cal.4th 1061.)

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1           **Request No. 14 – “Number of officers disciplined for incidents arising from officer**  
2 **racial bias, racial profiling, or use of racial slurs, as well as demographic information about**  
3 **the officers, including but not limited to their age, race, gender, and years employed by the**  
4 **police department from 2001 to the present”:** The City objects to and is unable to respond to  
5 this request on grounds the City does not maintain its records in a manner that would compile the  
6 information requested, the “number of officers disciplined for racial bias, racial profiling, or use  
7 of racial slurs” and the officers’ “demographic information.” (*Haynie v. Superior Court* (2001)  
8 26 Cal.4th 1061.)


9           **Request No. 15 – “Number of officers disciplined for incidents arising from**  
10 **improper detentions, as well as demographic information about the officers, including but**  
11 **not limited to their age, race, gender, and years employed by the police department from**  
12 **2001 to the present”:** The City objects to and is unable to respond to this request on grounds the  
13 City does not maintain its records in a manner that would compile the information requested, the  
14 “number of officers disciplined for improper detentions” and the officers’ “demographic  
15 information.” (*Haynie v. Superior Court* (2001) 26 Cal.4th 1061.)

16           **Request No. 16 – “Number of officers disciplined for incidents arising from**  
17 **improper searches, as well as demographic information about the officers, including but**  
18 **not limited to their age, race, gender, and years employed by the police department from**  
19 **2001 to the present”:** The City objects to and is unable to respond to this request on grounds the  
20 City does not maintain its records in a manner that would compile the information requested, the  
21 “number of officers disciplined for improper searches” and the officers’ “demographic  
22 information.” (*Haynie v. Superior Court* (2001) 26 Cal.4th 1061.)

23 DATED: January 6, 2017.

Respectfully submitted,

DOUGLAS T. SLOAN  
City Attorney

By:   
FRANCINE M. KANNE  
Chief Assistant City Attorney  
Attorneys for CITY OF FRESNO

28 FMK:kh [73490kh/fmk]



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**PROOF OF SERVICE**  
CCP §§ 1011, 1013, 1013a, 2015.5  
FRCP 5(b)

STATE OF CALIFORNIA, COUNTY OF FRESNO

I am employed in the County of Fresno, State of California. I am over the age of 18 and not a party to the within action; my business address is 2600 Fresno Street, Fresno, CA 93721-3602.

On January 6, 2017, I served the document described as **RESPONSE TO PUBLIC RECORDS ACT REQUEST FOR DOCUMENTS** on the interested parties in this action  by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:  by placing  the original  a true copy thereof enclosed in sealed envelopes addressed as follows:

Novella Coleman, Staff Attorney  
ACLU of Northern California  
39 Drumm St.  
San Francisco, CA 94111  
E-mail: ncoleman@aclunc.org

**BY MAIL**  I deposited such envelope in the mail at Fresno, California. The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Fresno, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

**(BY PERSONAL SERVICE)** I caused such envelope to be hand delivered.

**(BY FAX)** I caused the above-referenced document to be transmitted by fax to the addressee(s) at the fax number(s) shown.

**(BY OVERNIGHT COURIER)** I caused the above-referenced envelope(s) to be delivered to an overnight courier service for delivery to the addressee(s).

**(BY ELECTRONIC MAIL)** I caused the above-referenced document to be transmitted by electronic mail (e-mail) to the addressee(s) at the e-mail(s) shown.

Executed on January 6, 2017, at Fresno, California.

**(State)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

  
\_\_\_\_\_  
Kimberly Hernandez

# **EXHIBIT C**

1 DOUGLAS T. SLOAN, City Attorney  
CITY OF FRESNO  
2 By: Francine M. Kanne, Chief Assistant City Attorney (#139028)  
2600 Fresno Street, Room 2031  
3 Fresno, California 93721-3602  
Telephone: (559) 621-7500  
4 Facsimile: (559) 488-1084

5 Attorneys for CITY OF FRESNO  
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10 RE:

11 **ADDITIONAL RECORDS**  
12 **PERTAINING TO THE FRESNO**  
13 **POLICE DEPARTMENT**

14 **SUPPLEMENTAL RESPONSE TO**  
15 **PUBLIC RECORDS ACT REQUEST FOR**  
16 **DOCUMENTS (Govt. Code §6250, et seq.)**

17 The City of Fresno ("City") responds to a request pursuant to the California Public Records  
18 Act (Govt. Code §6250, et seq.) by Novella Coleman, Staff Attorney, ACLU of Northern  
19 California, seeking **additional records pertaining to the City's Police Department**, as follows:

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1           **Request No. 1 – “For each [City] Police Department officer-involved shooting from**  
2 **2001 to the present[:]** a) Names and demographic information of the officers involved in the  
3 **shooting including any information identifying which officer(s) discharged from their**  
4 **firearm; b) Rank, assignment and salary at the time of the shooting and presently for**  
5 **officers involved in the shooting; c) Descriptions of events leading up to and following each**  
6 **officer-involved shooting, including but not limited to police reports, incident reports,**  
7 **inquiries by the public requesting police officer presence, including any documents relating**  
8 **to the health outcomes of any persons shot; d) Names and demographic information of all**  
9 **victims and suspects related to [City] Police Department officer-involved shootings”:** The  
10 City continues to object to this request on grounds: (a) the City does not maintain its records in a  
11 manner that would compile officers’ “demographic information” or the other information  
12 requested (*Haynie v. Superior Court* (2001) 26 Cal.4th 1061); (b) it seeks documents that are  
13 part of investigations conducted by the City’s Police Department (Govt. Code § 6254(f); (c) it  
14 seeks disclosure of records containing information from anticipated and/or pending litigation  
15 (Govt. Code § 6254(b)); (d) it seeks documents and information protected by the third party right  
16 to privacy (Govt. Code § 6254(k)); (e) it seeks disclosure of information from employees’  
17 personnel files, which may constitute an unwarranted invasion of those employees’ privacy  
18 (Govt. Code § 6254(c)); and (f) it seeks records regarding internal affairs investigations protected  
19 by the Police Officer’s Bill of Rights (“POBR”). Without waiving these objections and subject  
20 thereto, the City’s Police Department produces potentially responsive documents, with privileged  
21 information withheld, attached hereto, as Exhibits “X” and “Y.” Please note the City’s Police  
22 Department does not maintain records dating back to January 1, 2001, for all the information  
23 requested.

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1           **Request No. 2 – “All policies, procedures, guidance or trainings relating to use of**  
2 **force and discharge of firearms”:** A response to this request was provided on January 6, 2017,  
3 and sent by electronic mail to ncoleman@aclunc.org and by U.S. Mail Service to Novella  
4 Coleman, Staff Attorney, at 39 Drumm Street, San Francisco, California 94111.

5           **Request No. 3 – “All training, policies, procedures and practices regarding taking**  
6 **civilian complaints and investigating civilian complaints”:** A response to this request was  
7 provided on January 6, 2017, and sent by electronic mail to ncoleman@aclunc.org and by U.S.  
8 Mail Service to Novella Coleman, Staff Attorney, at 39 Drumm Street, San Francisco, California  
9 94111.

10           **Request No. 4 – “Number of complaints made to the department related to**  
11 **allegations of use of force from 2001 to the present”:** The City continues to object to this  
12 request on grounds it is overbroad as to time and unduly burdensome. (*Community Youth*  
13 *Athletic Center v. City of National City* (2013) 220 Cal.App.4th 1385, 1425.) The Department  
14 does not maintain all records dating back to 2001. Without waiving these objections and subject  
15 thereto, the City’s Police Department produces a potentially responsive document, attached  
16 hereto, as Exhibit “Z.”

17           **Request No. 5 – “All policies, procedures, guidance or trainings provided to officers**  
18 **relating to preventing or avoiding discrimination, including based on explicit or implicit,**  
19 **conscious or unconscious bias, when interacting with individuals and communities”:** A  
20 response to this request was provided on January 6, 2017, and sent by electronic mail to  
21 ncoleman@aclunc.org and by U.S. Mail Service to Novella Coleman, Staff Attorney, at 39  
22 Drumm Street, San Francisco, California 94111.

23           **Request No. 6 – “Number of complaints made to the department related to**  
24 **allegations of racial bias from 2001 to the present”:**

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1 The City continues to object to this request on grounds it is overbroad as to time and  
2 unduly burdensome. (*Community Youth Athletic Center v. City of National City* (2013) 220  
3 Cal.App.4th 1385, 1425.) The Department does not maintain all records dating back to 2001.  
4 Without waiving these objections and subject thereto, the City’s Police Department produces a  
5 potentially responsive document, attached hereto, as Exhibit “AA.”

6 **Request No. 7 – “Number of complaints made to the department related to**  
7 **allegations of unlawful detention from 2001 to the present”:** The City continues to object to  
8 this request on grounds it is overbroad as to time and unduly burdensome. (*Community Youth*  
9 *Athletic Center v. City of National City* (2013) 220 Cal.App.4th 1385, 1425.) The Department  
10 does not maintain all records dating back to 2001. Without waiving these objections and subject  
11 thereto, the City’s Police Department produces a potentially responsive document, attached  
12 hereto, as Exhibit “BB.”

13 **Request No. 8 – “Number of complaints made to the department related to**  
14 **allegations of unlawful searches from 2001 to the present”:** The City continues to object to  
15 this request on grounds it is overbroad as to time and unduly burdensome. (*Community Youth*  
16 *Athletic Center v. City of National City* (2013) 220 Cal.App.4th 1385, 1425.) The Department  
17 does not maintain all records dating back to 2001. Without waiving these objections and subject  
18 thereto, the City’s Police Department produces a potentially responsive document, attached  
19 hereto, as Exhibit “CC.”

20 **Request No. 9 – “All policies, procedures, guidance or training relating to officers**  
21 **interacting with persons with known or suspected mental health issues”:** A response to this  
22 request was provided on January 6, 2017, and sent by electronic mail to [ncoleman@aclunc.org](mailto:ncoleman@aclunc.org)  
23 and by U.S. Mail Service to Novella Coleman, Staff Attorney, at 39 Drumm Street, San  
24 Francisco, California 94111.

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1           **Request No. 10 – “All policies, procedures and practices regarding investigation of**  
2 **incidents involving use of force or officer-involved shootings”:** A response to this request was  
3 provided on January 6, 2017, and sent by electronic mail to ncoleman@aclunc.org and by U.S.  
4 Mail Service to Novella Coleman, Staff Attorney, at 39 Drumm Street, San Francisco, California  
5 94111.

6           **Request No. 11 – “All policies, procedures and practices regarding officer discipline**  
7 **or training required as a result of incidents involving use of force or officer-involved**  
8 **shootings”:** A response to this request was provided on January 6, 2017, and sent by electronic  
9 mail to ncoleman@aclunc.org and by U.S. Mail Service to Novella Coleman, Staff Attorney, at  
10 39 Drumm Street, San Francisco, California 94111.

11           **Request No. 12 – “All Fresno Police Department actual annual budgets including**  
12 **expenditures from 2001 to the present”:** A response to this request was provided on January 6,  
13 2017, and sent by electronic mail to ncoleman@aclunc.org and by U.S. Mail Service to Novella  
14 Coleman, Staff Attorney, at 39 Drumm Street, San Francisco, California 94111. Please note the  
15 City is still searching for potentially responsive documents for fiscal years 2000 to 2012. If  
16 additional, potentially responsive documents exist, a further response to this request will be  
17 provided as soon as possible.

18           **Request No. 13 – “Number of officers disciplined for incidents arising from officer**  
19 **use of force, as well as demographic information about the officers, including but not**  
20 **limited to their age, race, gender, and years employed by the police department from 2001**  
21 **to the present”:** A response to this request was provided on January 6, 2017, and sent by  
22 electronic mail to ncoleman@aclunc.org and by U.S. Mail Service to Novella Coleman, Staff  
23 Attorney, at 39 Drumm Street, San Francisco, California 94111.

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1           **Request No. 14 – “Number of officers disciplined for incidents arising from officer**  
2 **racial bias, racial profiling, or use of racial slurs, as well as demographic information about**  
3 **the officers, including but not limited to their age, race, gender, and years employed by the**  
4 **police department from 2001 to the present”:** A response to this request was provided on  
5 January 6, 2017, and sent by electronic mail to ncoleman@aclunc.org and by U.S. Mail Service  
6 to Novella Coleman, Staff Attorney, at 39 Drumm Street, San Francisco, California 94111.

7           **Request No. 15 – “Number of officers disciplined for incidents arising from**  
8 **improper detentions, as well as demographic information about the officers, including but**  
9 **not limited to their age, race, gender, and years employed by the police department from**  
10 **2001 to the present”:** A response to this request was provided on January 6, 2017, and sent by  
11 electronic mail to ncoleman@aclunc.org and by U.S. Mail Service to Novella Coleman, Staff  
12 Attorney, at 39 Drumm Street, San Francisco, California 94111.

13           **Request No. 16 – “Number of officers disciplined for incidents arising from**  
14 **improper searches, as well as demographic information about the officers, including but**  
15 **not limited to their age, race, gender, and years employed by the police department from**  
16 **2001 to the present”:** A response to this request was provided on January 6, 2017, and sent by  
17 electronic mail to ncoleman@aclunc.org and by U.S. Mail Service to Novella Coleman, Staff  
18 Attorney, at 39 Drumm Street, San Francisco, California 94111.

19 DATED: January 12, 2017.

Respectfully submitted,

20 DOUGLAS T. SLOAN  
21 City Attorney

22 By: 

23 FRANCINE M. KANNE  
24 Chief Assistant City Attorney  
25 Attorneys for CITY OF FRESNO

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**PROOF OF SERVICE**  
CCP §§ 1011, 1013, 1013a, 2015.5  
FRCP 5(b)

STATE OF CALIFORNIA, COUNTY OF FRESNO

I am employed in the County of Fresno, State of California. I am over the age of 18 and not a party to the within action; my business address is 2600 Fresno Street, Fresno, CA 93721-3602.

On January 12, 2017, I served the document described as **SUPPLEMENTAL RESPONSE TO PUBLIC RECORDS ACT REQUEST FOR DOCUMENTS** on the interested parties in this action  by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:  by placing  the original  a true copy thereof enclosed in sealed envelopes addressed as follows:

Novella Coleman, Staff Attorney  
ACLU of Northern California  
39 Drumm St.  
San Francisco, CA 94111  
E-mail: ncoleman@aclunc.org

BY MAIL  I deposited such envelope in the mail at Fresno, California. The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Fresno, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

(BY PERSONAL SERVICE) I caused such envelope to be hand delivered.

(BY FAX) I caused the above-referenced document to be transmitted by fax to the addressee(s) at the fax number(s) shown.

(BY OVERNIGHT COURIER) I caused the above-referenced envelope(s) to be delivered to an overnight courier service for delivery to the addressee(s).

(BY ELECTRONIC MAIL) I caused the above-referenced document to be transmitted by electronic mail (e-mail) to the addressee(s) at the e-mail(s) shown.

Executed on January 12, 2017, at Fresno, California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

  
Kimberly Hernandez

# **EXHIBIT D**



November 14, 2017

**VIA U.S. MAIL AND EMAIL**

Fresno City Council, 2600 Fresno Street, Room 2097, Fresno, CA 93721  
Mayor Lee Brand, 2600 Fresno Street, Room 2075, Fresno, CA 93721  
Chief Jerry Dyer, [Jerry.Dyer@fresno.gov](mailto:Jerry.Dyer@fresno.gov)

**RE: Fresno Police Department's use of force**

Dear Councilmembers, Mayor Brand, and Chief Dyer:

I write on behalf of the American Civil Liberties Union of California to submit our report regarding the Fresno Police Department's use of force.

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](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 its frequency of officer-involved shootings in particular. 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.

Given the report's findings, I ask you to implement our proposed recommendations pertaining to the Department's use of force policies and practices pertaining to training, transparency, community relations, and accountability. If you have any questions or wish to discuss further, please contact me at (415) 621-2493 or [ncoleman@aclunc.org](mailto:ncoleman@aclunc.org). Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Novella Coleman".

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](http://www.aclunc.org/docs/Fresno_Police_Shootings_OnePager.pdf).

cc: Deputy Chief Robert Nevarez, [Robert.Nevarez@fresno.gov](mailto:Robert.Nevarez@fresno.gov)  
Lieutenant Mindy Casto, [Mindy.Casto@fresno.gov](mailto:Mindy.Casto@fresno.gov)  
Sergeant Dennis Lowry, [Dennis.Lowry@fresno.gov](mailto:Dennis.Lowry@fresno.gov)  
John Gliatta, Independent Reviewer, [john.gliatta@fresno.gov](mailto:john.gliatta@fresno.gov)  
Francine Kanne, Chief Assistant City Attorney, [Francine.Kanne@fresno.gov](mailto:Francine.Kanne@fresno.gov)  
Fresno County District Attorney, [demail@co.fresno.ca.us](mailto:demail@co.fresno.ca.us)  
Doug Treisman, Senior Deputy District Attorney, [dtreisman@co.fresno.ca.us](mailto:dtreisman@co.fresno.ca.us)

# 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.

