



# Office of Accountability and Transparency

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## Monitoring Report Incident OAT22-009

On December 3, 2022, an officer with the Phoenix Police Department (PPD) was involved in an officer-involved shooting near 2900 West Thomas Road. Officers responded to a call regarding a person brandishing a knife and throwing rocks at a civilian. Officers confronted the Involved Civilian and as the Involved Civilian was running from officers, the Involved Officer fired his duty weapon, injuring the Involved Civilian.

This report contains OAT's review and conclusions about the administrative investigation that the Phoenix Police Department completed following this incident.

## STATUTORY HISTORY AND AUTHORITY

The City of Phoenix created the Office of Accountability and Transparency (OAT) in 2021 to perform independent civilian oversight of the Phoenix Police Department (Department). OAT monitors Department administrative investigations of critical incidents involving sworn personnel and provides community members a way to freely communicate complaints, commendations, and concerns about officers and the Department without fear of retaliation. Phoenix City Code (P.C.C.) §§ 20-6 and 20-7 give OAT the authority to monitor Department administrative investigations.<sup>1</sup>

Specifically, P.C.C. § 20-6, requires OAT to monitor administrative investigations of:

- officer-involved shootings;
- deaths in-custody;
- any duty-related incident during which, or as a result of which, anyone dies or suffers serious bodily injury;
- incidents in which Department personnel are under investigation for or charged with offenses against persons under Arizona law; and
- incidents in which a Phoenix police officer is under investigation for any misdemeanor or local law violation where use of force or threatened use of force is an element in the crime.<sup>2</sup>

Phoenix City Code § 20-7, gives OAT discretionary authority to monitor:

- Department administrative investigations of any incidents that result in a Department administrative investigation in which OAT believes it is in the City's best interest for OAT to be involved, and
- Department administrative investigations when requested to do so by the City Manager.<sup>3</sup>

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<sup>1</sup> [P.C.C. Chapter 20 can be found here.](#)

<sup>2</sup> P.C.C. Sec. 20-6.

<sup>3</sup> P.C.C. Sec. 20-7.

## EXECUTIVE SUMMARY

On December 3, 2022, the Department responded to a call for service alleging that the Involved Civilian brandished a knife at another civilian. After the Involved Civilian did not comply with responding officers' commands, one officer deployed a single less lethal 40mm round that did not result in compliance from the Involved Civilian. The Involved Civilian continued to run from officers at which time the officers observed a knife in the subject's hand. The Involved Civilian ran in the direction of an approaching vehicle and the Involved Officer fired his duty weapon, resulting in two non-lethal gunshot wounds to the Involved Civilian.

The Department's Professional Standards Bureau (PSB) conducted an administrative investigation of this officer-involved shooting (OIS) incident and the Department's Critical Incident Review Board (CIRB) issued a *within policy* finding recommendation memo to the Police Chief on December 6, 2023. The Police Chief concurred with the CIRB's recommended finding, and the Department's administrative investigation was closed.

OAT received notice of this incident via communication with the Department on or about December 3, 2022. Exercising its mandatory authority, OAT sent the Police Chief and the City Manager a Monitoring Notice on December 6, 2022. OAT publicly issued this report on April 25, 2024.

OAT's conclusion following review is that the investigation was not thorough and complete. Through its review, OAT identified two areas in the Department's administrative investigative process that could benefit from additional attention and greater transparency. OAT's recommendations for future investigations follow.

## FACTUAL AND PROCEDURAL HISTORY<sup>4</sup>

- December 3, 2022 – Incident
- December 6, 2022 – OAT noticed Department of intent to monitor
- July 6, 2023 – OAT received initial disclosures from Department
- November 29, 2023 – OAT sent public records request for disclosure
- October 4, 2023 – OAT received additional disclosure from Department
- September 14, 2023 – Department concluded its administrative investigation
- December 6, 2023 – Incident discussed at Critical Incident Review Board
- December 6, 2023 – Chief Sullivan issued a Findings Letter that indicated that the OIS was within policy
- April 9, 2024 – OAT completed Monitoring Report
- April 25, 2024 – OAT released Monitoring Report to the public and the media

### I. Incident

On December 3, 2022, at 9:42 a.m., Department officers responded to a call for service to a convenience store near 2900 West Thomas Road for an allegation that the Involved Civilian brandished a knife and threw rocks at another civilian. When responding officers arrived on scene, they observed an individual who matched the description of the subject, the Involved Civilian.

The responding officers confronted the Involved Civilian, who had his hands in his pockets. The Involved Civilian began to run away from the from the responding officers, who commanded him to stop and remove his hands from his jacket. The Involved Civilian did not comply and continued to run.

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<sup>4</sup> Table 1 contains a detailed list of the information and materials OAT received from the Department's Professional Standards Bureau or through the public records request process (See Appendix).

Involved Officer A told the Involved Civilian, “you’re going to get shot.” Involved Officer B then deployed a single less lethal 40mm round at the Involved Civilian, though it is unclear whether the round struck the Involved Civilian.

As the Involved Civilian continued to run, he removed his hands from his pockets and Involved Officers saw a knife in his hand. The Involved Officers ordered Involved Civilian to drop the knife as he continued to run at a moderate pace and again did not comply. The Involved Officers pursued the Involved Civilian on foot and during this pursuit, Involved Officer B deployed two (2) additional less lethal 40mm rounds at the Involved Civilian, apparently missing the Involved Civilian with both shots.

As the Involved Civilian continued to slowly run southbound on North 29<sup>th</sup> Avenue with the knife in his hand, a white SUV was driving northbound. When he was approximately 15 feet from the white SUV, Involved Officer A fired his duty weapon, striking the Involved Civilian two (2) times. As the shooting occurred, the white SUV turned slightly west and drove away from the scene. Responding officers did not attempt to stop the vehicle. The Involved Civilian fell to the ground. The Involved Officers took him into custody and began to render medical aid. The Involved Civilian sustained two non-lethal gunshot wounds and was taken to the hospital. Upon release from the hospital, the Involved Civilian was booked into jail.

## II. **The Phoenix Police Department’s Investigation**

PSB conducted an administrative officer-involved shooting investigation under case number SH22-0026, including reviewing body-worn camera footage, walking through the scene, observing round-counts from the Involved Officers’ firearms, conducting and reviewing recorded interviews, and reviewing incident reports.

On December 6, 2023, PSB presented their investigation to the Critical Incident Review Board (CIRB). Following the hearing and a brief deliberation among the CIRB members, the CIRB announced they found the Involved Officer's use of deadly force to be "*Within Policy*." The Police Chief agreed with the CIRB's "within policy" finding.

### III. **Investigative Sufficiency**

Under P.C.C. § 20-10, OAT is tasked with reviewing any Department administrative investigation it monitors to ensure that it is thorough and complete.<sup>5</sup> Based on its review, OAT concludes that the investigation was not thorough and complete for the following reasons.

#### a. **Recommended Steps for Improved Investigations**

OAT recommends the Department take the following steps to improve future administrative misconduct investigations:

##### 1. **Fully Explore the Involved Officer's Use of Deadly Force as it pertains to Law, Policy, and Training**

While the PSB interviewers asked questions that solicited a response from Involved Officer A regarding his decision to use deadly force, there were no subsequent clarifying or follow-up questions regarding this decision within the framework of law, policy, and training—critical factors for decision-makers to reach sound policy violation findings. Neither the public nor the internal administrative decision-makers should have to assume the basis for an officer's actions. To improve future investigations with similar facts and circumstances, investigators should fully explore the following areas:

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<sup>5</sup> OAT's thorough and complete sufficiency determinations include a review and assessment of: allegations made; evidence obtained, reviewed, and analyzed; quality and extent of subject and witness interviews; investigative report clarity and objectivity; and the investigative process taken.

**(a)** The Department should ask the Involved Officer how their perception of an Involved Civilian's mental state informed their actions during the incident and engage in follow-up by asking Involved Officers to detail their training regarding encountering subjects who demonstrate a possible mental illness or impairment. This line of questioning is relevant here because during their PSB interview, Involved Officer stated that the Involved Civilian may have been under the influence of drugs or was suffering from a mental illness.<sup>6</sup> Exploring how this perception affected the Involved Officer's response would allow for better understanding of the relevant decision-making processes.

**(b)** When an Involved Officer states that he determined that the use of a taser or other less lethal force would be ineffective, the Department should ask the Involved Officer(s) to fully explain this determination and to explain how this decision was supported by policy or training.

**(c)** The Department should ask Involved Officers to detail what experiences the officers have had and what training the officers have received regarding certain key facts in an incident. Here, it would have added insight to ask about the Involved Officers' experiences or training related to carjackings and danger to civilians when individuals armed with knives approach moving vehicles while being pursued by police.

Fully exploring an Involved Officer's decision-making process, including not only law, policy, and training, but also any prior experiences that informed their decision is critical for providing the necessary context to assess the reasonableness of the Officer's fears and the resulting decision to use lethal force. This is especially important where an officer's professional experience adds insight that may be difficult for civilians or those who were not present on scene to fully grasp.

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<sup>6</sup> PSB interview approximately 915-1030 mark

## **2. Provide Written Analysis and Conclusions in Support of Investigative Findings**

Documenting the Department's decision making is fundamental for transparency within the Department's accountability systems. Currently, the only information provided to those impacted by these serious incidents (including the Involved Officers and Involved Civilians) is the conclusory finding of "within policy" or "out of policy." While all administrative investigations benefit from the inclusion of analysis and conclusions that support the findings, the high-profile and serious incidents that come before CIRB—officer-involved shootings, use of force incidents resulting in serious injury or death, and in-custody deaths—necessitate, if not require, the production and disclosure of such relevant and important information. Accordingly, in all administrative investigations, and particularly in critical incidents involving deaths or serious injury to a civilian, the CIRB and Police Chief should include a written analysis with conclusions in support of the findings they issue. By doing so, the Department will further its commitment to being transparent and will provide greater understanding and justification for the decisions it makes.

### **CONCLUSION**

OAT respectfully submits the above report and recommendations in compliance with P.C.C. §§ 20-6 and 20-7 and requests a response from the Police Chief within 30 days, by May 25, 2024.

**Appendix**

**Investigative Materials List**

Items	PPD Date	Date to OAT
<b>PSB Cover Page</b>		
Checklist for PSB Investigations	Undated	October 4, 2023
Redaction Notice	Undated	October 4, 2023
<b>PSB Internal Investigation Report</b>		
	September 14, 2023	October 4, 2023
<b>Critical Incident Review Board Results (*2)</b>		
	December 6, 2023	December 12, 2023
<b>PSB Administrative Paperwork</b>		
Notice of Investigation (*2)	December 3, 2022	October 4, 2023
Investigative Review Control Form (*2)	September 12, 2023	October 4, 2023
Status Update Memorandums (*2)	March 2, 2023	October 4, 2023
Weapon Score Sheet (*2)	December 5, 2022	October 4, 2023
<b>Involved Employees' Administrative Paperwork</b>		
	September 14, 2023	October 4, 2023
<b>Involved Civilian</b>		
	Undated	October 4, 2023
<b>PSB Report Attachments</b>		
Report on the Examination of Physical Evidence	December 6, 20, 21, 23, 25, 2022 January 4, 2023 February 14, 2023 May 6, 2023	October 4, 2023
Map of Incident Location	December 3, 2022	October 4, 2023
Decision Letter from MCAO	July 26, 2023	October 4, 2023
Call for Service	December 5, 2022	October 4, 2023
PSB Material List (*2)	December 3, 2022	October 4, 2023
Unit History Worksheet	December 5, 2022	October 4, 2023
<b>BWC Videos</b>		
Officer A	December 3, 2022	July 6, 2023
Officer B	December 3, 2022	July 6, 2023
<b>PSB Interviews</b>		
Officer A	December 3, 2022	July 6, 2023
Officer B	December 3, 2022	July 6, 2023
<b>Other Items/Evidence</b>		
911 Call for Service	December 3, 2022	October 4, 2023
Radio Traffic	December 3, 2022	October 4, 2023

**MONITORING CASE DETAILS**

**Monitoring Report Date:** April 25, 2024

**OAT Monitoring Case #:** 22-009

**Classification of Monitoring Case:** Mandatory

**Police Incident Report #:** 2022-00001803214-036

**Incident Date & Time:** December 3, 2022, approximately, 9:42 a.m.

**Location:** 2900 West Thomas Road, Phoenix, AZ

**OAT Monitoring Notice Sent:** December 6, 2022

**Department Administrative Case #:** SH22-0026

**Department-Issued/CIRB Findings:** Within Policy

**Administrative Finding Date:** December 6, 2023

**Officer(s) Involved:** (1) Involved Officer

**Officer(s) Injury Level(s):** None

**Civilian(s) Involved:** (1) Involved Civilian

**Civilian(s) Injury Level(s):** Non-Fatal gunshot wounds

**Complainant(s):** No known complainants