



Office of Accountability and Transparency

Monitoring Report Incident OAT22-008

On November 29, 2022, following a vehicle pursuit of an armed robbery suspect, there was an officer-involved shooting incident that took place near 1800 E Southern Avenue. The suspect produced a handgun and ignored commands before the Involved Officer fired at the suspect.

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.¹

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.²

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.³

¹ [P.C.C. Chapter 20 can be found here.](#)

² P.C.C. Sec. 20-6.

³ P.C.C. Sec. 20-7.

EXECUTIVE SUMMARY

On November 29, 2022, the Involved Officer and his partner engaged in a vehicle pursuit with the Involved Civilian, an armed robbery suspect. The pursuit ended when the Involved Civilian crashed his vehicle into a residential fence. The Involved Officer and his partner exited their marked police vehicle, drew their handguns, and gave multiple orders for the Involved Civilian and the other occupant, who was seated in the front passenger seat, to show their hands. The Involved Officer discharged his weapon at the Involved Civilian after the Involved Civilian displayed and then pointed a handgun in the direction of the other seated occupant and where the Involved Officer's partner was standing outside the Involved Civilian's vehicle. The Involved Civilian was struck multiple times by the Involved Officer's gunfire. At approximately the same time that the Involved Officer discharged his weapon, the Involved Civilian turned his handgun on himself and discharged a bullet into his own head.

The Department's Professional Standards Bureau (PSB) conducted an administrative investigation of this officer-involved shooting (OIS) incident. On November 1, 2023, following a scheduled hearing, the Department's Critical Incident Review Board (CIRB) issued a *within policy* finding recommendation memo to the Police Chief. The Police Chief signed CIRB's single-page memo confirming his concurrence with their recommended finding, and the Department's administrative investigation was closed.

OAT received notice of this OIS from the Department on or about November 29, 2022. Exercising its mandatory authority, OAT sent the Police Chief and the City Manager a Monitoring Notice on November 30, 2022. OAT publicly issued this report on April 25, 2024.

After review, OAT concludes that the Department's administrative investigation was sufficiently thorough and complete. In reaching this conclusion, 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 HISTORY⁴

- November 29, 2022 – Officer-Involved Shooting incident
- November 30, 2022 – OAT noticed Department of intent to monitor
- April 20, 2023 – MCAO informs Department the Involved Officer’s actions were not criminal
- June 27, 2023 – Department concluded its administrative investigation
- October 10, 2023 – OAT received initial internal investigative materials
- October 23, 2023 – OAT received additional incident documents via a public records request
- November 1, 2023 – CIRB hearing and verbal announcement of *within policy* finding, which was captured in a memo that CIRB sent to the Police Chief the same day
- January 17, 2024 – OAT received additional investigative materials – the Department’s review of the Involved Officer and partner’s pursuit
- January 29, 2024 – OAT received confirmation of the CIRB memo signed by the Police Chief concurring with CIRB’s within policy finding recommendation
- April 9, 2024 – OAT completed Monitoring Report
- April 25, 2024 – OAT released Monitoring Report to the public and the media

I. Incident

On November 29, 2022, at 10:53 p.m., the Involved Officer and his partner were on patrol near 3rd Street and Southern. While driving eastbound on Southern, they observed a vehicle that matched the description of a car used in an armed robbery earlier in the day. The Involved Officer recognized the driver as the armed robbery suspect (the Involved Civilian) seen on surveillance video.

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

The Involved Officer and his partner attempted a traffic stop. The Involved Civilian failed to stop and accelerated to a high rate of speed eastbound on Southern Avenue. The Involved Officer and his partner responded by engaging in a vehicle pursuit. They activated their lights and sirens and announced their pursuit over the police radio. While being pursued, the Involved Civilian lost control of his vehicle and crashed into a fence. The Involved Officer lightly collided the police vehicle into the back right panel of the Involved Civilian's vehicle as he brought the police vehicle to a complete stop.

The Involved Officer and his partner immediately exited their patrol vehicle, drew their handguns, and gave multiple verbal commands for the Involved Civilian and other occupant to show their hands. The Involved Officer's partner positioned himself on the passenger side of the patrol vehicle and reportedly had a direct view into the Involved Civilian's vehicle through that vehicle's passenger side window. The Involved Officer approached the driver side of Involved Civilian's vehicle, which was blocked by the fence post. The Involved Officer repositioned himself to the rear passenger side of the Involved Civilian's vehicle, which had its back window blown out, and fired his handgun nine (9) times at the Involved Civilian, after having issued numerous orders for the Involved Civilian to show his hands, and after he reportedly observed the Involved Civilian pointing his weapon in the direction of his passenger and the Involved Officer's partner.

After discharging his weapon, the Involved Officer repositioned himself to the passenger side of the Involved Civilian's vehicle, opened the passenger door, and gave verbal commands to the passenger to exit the vehicle. After exiting the vehicle, the passenger was taken into custody. The Involved Civilian was unresponsive following the shooting and died at the scene.

The Medical Examiner determined the Involved Civilian died because of multiple gunshot wounds, including a self-inflicted gunshot wound to the head.

II. The Phoenix Police Department's Investigation

The Department's administrative investigation was conducted by its Professional Standards Bureau (PSB). PSB's investigation focused exclusively on the Involved Officer's use of deadly force and included their attending the initial incident briefing,

participating in a walk-through of the scene, observing round counts of the Involved Officer's firearm, conducting an interview of the Involved Officer, reviewing the completed and closed associated criminal investigation of the Involved Officer's actions that was prepared for the Maricopa County Attorney's Office, and viewing relevant Department body-worn camera video, including that of the Involved Officer and his partner (see Appendix A for a full list of materials OAT received from the Department).

During a scheduled hearing on November 1, 2023, PSB made an in-person presentation about its investigation to CIRB.⁵ At the conclusion of the CIRB hearing, CIRB members went into closed-session deliberations. Minutes after doing so, CIRB concluded their deliberations and announced that they found the Involved Officer's use of deadly force to be within policy.⁶ The Police Chief affirmed the CIRB's within policy finding.

While not included as part of the CIRB hearings and deliberation process, the Department conducted a separate administrative investigation of the related pursuit and determined that it was within policy.

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.⁷

⁵ The reported purpose of CIRB is to review officer-involved shootings ... to determine and recommend to the Police Chief whether the actions of a police officer were appropriate or if they violated any Police Department policies or orders. (<https://www.phoenix.gov/policesite/Pages/CIRB.aspx>)

⁶ CIRB composition is supposed to include: one (1) chairperson (member of the Police Executive Staff), one (1) police commander, one (1) employee peer member, and three (3) community members. (<https://www.phoenix.gov/policesite/Pages/CIRB.aspx>; Phoenix Police Dep't., DISCIPLINE POLICY AND REVIEW BOARDS, OPERATIONS ORDER 3.18 4.A(4) (Rev. June 2021); the actual composition of the CIRB on November 1, 2023 differed from the above composition in that it included an additional employee peer member and only two (2) community members.

⁷ 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.

The Officer Involved Shooting (OIS) Investigation

Based on its review of the OIS investigation, OAT concludes that it was sufficiently thorough and complete.

While this is an overall positive assessment, OAT recommends the Department consider taking additional steps in their overall processes for future investigations, which are detailed in the following section of this report.

The Vehicle Pursuit Investigation

Given the relevance of the vehicle pursuit, in that its engagement and conclusion immediately preceded the encounter that resulted in an OIS, and the importance of assessing all administrative investigative efforts conducted by the Department of a given incident, OAT requested and reviewed the Department's associated vehicle pursuit investigation.

Based on its review of the vehicle pursuit investigation, OAT concludes that it was sufficiently thorough and complete. While this is an overall positive assessment regarding the pursuit investigation, OAT notes that Department vehicles are not equipped with in-car camera video technology. Accordingly, administrative decision-makers who are investigating or reviewing vehicle pursuits are severely limited in their ability to assess what unfolded in front of the involved officers' vehicles during these pursuits.⁸ Thorough review of these inherently dangerous—to both the public and involved officers—events is critical for ensuring officer and civilian safety.⁹ While OAT recognizes that the Department and the City have reasons for not acquiring this technology, it is difficult to argue against how beneficial it would be for reviewing many police related encounters, especially pursuits.

⁸ OAT is aware that the Department engaged in a pilot in-car video program several years ago, but it is OAT's understanding that it is no longer in existence with no known plans to resurrect it. However, because of the pilot program, the Department may still have a limited number of vehicles with operational in-car camera systems.

⁹ Int'l Ass'n of Chiefs of Police, *Vehicle Pursuits: Concepts & Issues Paper*, (Dec. 2019).

a. Recommended Steps for Improved Investigations

OAT recommends the Department take the following steps to improve future administrative officer-involved shooting investigations:

1. Elicit Answers from the Involved Officer(s) about Law, Policy, and Training

Officers receive extensive job preparation and training, and nothing is more important, in this regard, than when it comes to their decision to use deadly force. To enforce the importance of this training and to ensure that the Department is allowing its officers the opportunity to explain their decisions and actions according to how they will be assessed—in accordance with law, policy, and training—the Department should incorporate a specific line of questioning that elicits the Involved Officer’s understanding of those three areas. By doing so, investigators will increase the availability of facts that the CIRB and Police Chief have access to when reaching their conclusions about whether the shooting was or was not in policy. Eliciting officers’ responses on these areas also offers the Department greater insight into how well its policies and trainings are understood and applied outside the classroom.

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 directly and indirectly 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 supports the findings, high-profile and serious incidents as those 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 and 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

Table 1

Items	PPD Date	Date to OAT
Checklist for PSB Investigations	Undated	October 10, 2023
PSB Internal Investigation Report	June 27, 2023	October 10, 2023
Notice of Investigation	November 30, 2022	October 10, 2023
Investigative Review Control Form	May 17 & 30, 2023	October 10, 2023
Materials List	November 30, 2022	October 10, 2023
Status Update Memorandums	March 2, 2023	October 10, 2023
Weapon Score Sheet	December 6, 2022	October 10, 2023
PSB Employee(s) Paperwork	November 30, 2022	October 10, 2023
PSB Civilian(s) Paperwork	November 30, 2022	October 10, 2023
Report of Firearm Examination	April 19, 2023	October 10, 2023
Medical Examiner Report	December 2, 2022	October 10, 2023
Decision Letter from Maricopa County Attorney's Office	April 20, 2023	October 10, 2023
Involved Officer BWC	November 29, 2022	October 12, 2023
Partner Officer BWC	November 29, 2022	October 12, 2023
Involved Officer PSB Interview	November 30, 2022	October 12, 2023
Radio Traffic Audio	November 29, 2022	October 10, 2023
IR 2022-1786608 PPD Public Records Request	November 29, 2022	October 23, 2023
CIRB Memo with Chief's Signature	November 1, 2023 ¹⁰	January 29, 2024
Pursuit Investigation Documentation	Various Dates	January 17, 2024

¹⁰ While the CIRB memo is dated, it is unclear when the Chief signed it.

MONITORING CASE DETAILS

Monitoring Report Date:	April 25, 2024
OAT Monitoring Case #:	22-008
Classification of Monitoring Case:	Mandatory
Police Incident Report #:	20221786608
Incident Date & Time:	November 29, 2022, approximately 10:53 p.m.
Location:	1801 E Southern Avenue, Phoenix, AZ
OAT Monitoring Notice Sent:	November 30, 2022
Department Administrative Case #:	SH22-0025
Department-Issued/CIRB Findings:	Within Policy (CIRB & Police Chief Concur)
Date of Administrative Finding:	November 1, 2023
Officer(s) Involved:	(1) Involved Officer
Officer(s) Injury Level(s):	None
Civilian(s) Involved:	(1) Involved Civilian
Civilian(s) Injury Level(s):	Fatal/Self-Inflicted
Complainant(s):	No Known complainants