



Office of Accountability and Transparency

Monitoring Report Incident OAT23-035

On August 28, 2023, an officer with the Phoenix Police Department (PPD) was involved in a Use of Force incident at 3202 East Greenway Road. In this incident, the Involved Officer deployed a police K9 to gain compliance from the Involved Civilian. The Involved Civilian sustained serious injury from the K9 bite.

This report contains OAT's review and conclusions about the administrative review 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 August 28, 2023, Department officers responded to a commercial burglary call for service. Several officers responded to the scene, including a K-9 Officer, the Involved Officer. Responding officers called for the Involved Civilian to come out of the building and after an apparent partial response, the Involved Officer used the canine to gain compliance. The canine bit the Involved Civilian and continued to bite while responding officers detained and handcuffed him. The Involved Civilian was admitted to the hospital for his injuries and later charged with a felony.

OAT received notice of this incident via communication with the Department on October 21, 2023. Exercising its discretionary authority, OAT sent the Police Chief and the City Manager a Monitoring Notice on October 23, 2023. 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 HISTORY⁴

- August 28, 2023 – Incident
- October 4, 2023- Department concluded its administrative review
- October 23, 2023 – OAT noticed Department of intent to monitor
- January 17, 2024 – OAT received initial disclosures from Department
- February 22, 2024 – OAT sent public records request for disclosure
- April 9, 2024 – OAT completed Monitoring Report
- April 25, 2024 – OAT released Monitoring Report to the public and the media

⁴ 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).

I. Incident

On August 28, 2023, the PPD responded to a call for service regarding a commercial burglary. Several officers responded to the scene, including a K-9 Officer. The responding officers called for the Involved Civilian to come out of the building. After a few call outs, the Involved Civilian verbalized that he was coming out. The Involved Officer informed the Involved Civilian that the dog would be released if he did not come out with his hands up. The Involved Civilian stated he was coming out and did not want to get bitten. The Involved Officer informed the Involved Civilian that he had three (3) seconds to come out.

The Involved Civilian again stated he was coming out and showed himself to the responding officers with his hands up. The Involved Civilian then moved back, removing himself from the responding officers' line of sight. The Involved Officer released the canine and the dog bit the Involved Civilian on his right arm.

The Involved Civilian was transported and admitted to the hospital for treatment of the serious bite-related injuries. The Involved Civilian was subsequently arrested and charged with a felony.

II. The Phoenix Police Department's Review

The Department conducted a Review of Force under case number RTR23-1178. The investigation included a review of photos and body-worn camera.

On October 4, 2023, the report was completed and concluded the Involved Officer's Response to Resistance 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.⁵

⁵ 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.

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. Conduct a Full-Scale Professional Standards Bureau Investigation

This incident was evaluated as a Response to Resistance (RTR). As an RTR with use of a K-9, a K-9 supervisor completed the review, which was then approved through the Tactical Support Bureau (TSB) chain of command. There were no recorded interviews conducted with any of the responding officers. The Department's internal policies indicate this case should have been investigated by PSB.

The Department's PSB Manual identifies the type of incidents that the Investigations Unit handles. Policy B-1 §§ 4(B)(1) and 4(B)(3) identify serious misconduct allegations, response to resistance incidents resulting in serious injury, *or* incidents which have the potential for City liability as matters that are classified for a full-scale PSB investigation.⁶

A full-scale PSB investigation would have allowed PSB to address and properly explain the rationale for the use of the canine under these circumstances. This expanded investigation would have included a recorded interview of the Involved K-9 Officer which would have afforded the Department the chance to fully understand why the Involved K-9 Officer deployed the canine and explore the timeline from deployment to the dog releasing the bite—including an understanding of what led to the injury severity. Additionally, interviewing the Involved Officer would have allowed the opportunity for the Involved Officer to explain his decision making within the framework of law, policy, and training.

⁶ Phoenix Police Dep't., PROFESSIONAL STANDARDS BUREAU MANUAL, p. 24 (Rev. Feb. 2022).

For example, in detailing best practices when using K-9s for apprehension, the International Association of Chiefs of Police, states:

Once it is clear the suspect poses no immediate threat to officers or others the bite must end. It is no longer satisfactory to speculate about what a suspect might do. We must be able to articulate who was at risk from the suspect at that moment and by what means. The bottom line is K-9 bites must be as brief as needed to get the job done.⁷

Because best practice dictates that a K9 bite should end when “the suspect poses no immediate threat to officers or others,” a full PSB investigation, including interviewing the Involved Officer, would have afforded the K-9 Officer the opportunity to explain how his decisions aligned with this and similar best practices. This opportunity would have given the Department—and the public—an articulated, documented basis for any conclusions regarding alignment with the law, policy, and training related to K9 deployment, suspect compliance, and K9 release.

An incident of this severity deserves the level of detail and attention that could only come from the Department entity whose primary responsibility is to conduct potential misconduct investigations. A robust and complete PSB investigation would have increased the Involved Officer’s and public’s understanding of this incident, developed information to potentially enhance Department training, and put the Department in line with its internal policies regarding when a PSB investigation should occur. To address the deficiencies and the seriousness of the Involved Civilian’s injuries, OAT recommends the Department conduct a full-scale PSB investigation with similar incidents.

⁸ Int’l. Ass’n. of Chiefs of Police, *2023-K9 Training Principles for the Modern Operating Environment* at 3, (2023).

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
Administrative Paperwork		
Response to Resistance Report	August 27, 2023	January 17, 2024
Pointing Gun at Person Report	October 4, 2023	January 17, 2024
BWC Videos		
Officer A	August 28, 2023	August 28, 2023
Officer B	August 28, 2023	August 28, 2023
Records Obtained by OAT via February 22, 2024 Public Records Request		
Incident Report	August 27, 2023	May 13, 2024

MONITORING CASE DETAILS

Monitoring Report Date: April 25, 2024

OAT Monitoring Case #: 23-035

Classification of Monitoring Case: Discretionary

Police Incident Report #: 23-00001309527

Incident Date & Time: August 28, 2023, approximately, 12:43 a.m.

Location: 3202 East Greenway Road, Phoenix, AZ

OAT Monitoring Notice Sent: October 23, 2023

Department Administrative Case #: RTR23-1178

Department-Issued/CIRB Findings: Within Policy

Administrative Finding Date: October 4, 2023

Officer(s) Involved: (1) Involved Officer

Officer(s) Injury Level(s): None

Civilian(s) Involved: (1) Involved Civilian

Civilian(s) Injury Level(s): Canine bite wounds-hospitalization

Complainant(s): No known complainants