



City of Phoenix
Office of Accountability and Transparency
Department Responses to OAT Recommendations

Department: Phoenix Police Department

Department Head: Michael G Sullivan, Interim Chief

Project Title: OAT Monitoring Report – Discretionary

OAT Report Number: Incident OAT22-007

PSB Report Number: 23-0002

Per the MOU between the Office of Accountability and Transparency (OAT) and the Phoenix Police Department (PPD), the below information is provided in response to the OAT Monitoring Report for Incident OAT22-007.

Rec. #1: Interview Officer Regarding Every Allegation	
Response: Agree	Target Date: September 19, 2024
<p>Explanation: The PPD agrees and accepts the OAT recommendation. The Professional Standards Bureau (PSB) investigation should include questions directly related to every allegation in their interview with the involved employee(s).</p> <p>This recommendation is related to Allegation #4 from PSB 23-0002, “The Involved Officer wrongfully detained a person based upon the person’s race”. Based on a thorough review of Body-Worn Camera interactions with the involved party, and direct questioning of the original complainant and witnesses, this allegation was determined to be unfounded. The Involved Officer was not asked any direct questions regarding this allegation as a part of the interview.</p> <p>All alleged misconduct must be thoroughly investigated to provide the highest level of service and transparency to the community. Additionally, the Police Department is committed to providing services and enforcing laws in a professional, non-discriminatory, fair, and equitable manner in all encounters and does not tolerate discrimination on any basis.</p> <p>Follow up: Each employee under NOI and being interviewed will be asked if they hold any bias toward the subject they encountered and if that bias played a role in their decision making or their actions. The question, “Do you hold any bias toward</p>	

the person which impacted your decision making or actions?" will included in Operations Order 3.19. This direction is in line with Operations Order 1.1B(3) We respect and honor the inherent dignity of all people, including ourselves, and pledge fair and equal treatment for all.

Rec. #2: Fully Explore Use and Understanding of De-Escalation Tactics and Alternate Responses Under Policy

Response: Agree

Target Date:
January 2025

Explanation: The PPD agrees and accepts the OAT recommendation.

The PSB administrative investigation for this incident did not involve an allegation of misconduct related to de-escalation tactics or alternate responses. The relevant allegation states, "The Involved Officer used excessive force when he detained a person." The investigation determined this allegation was unfounded.

Follow up: The PPD is conducting mandatory training for all employees in Integrating Communications, Assessment, and Tactics (ICAT) focused on de-escalation tactics and alternate responses. Revisions to the Use of Force policy (Operations Order 1.5) have been made and training related to this policy is in progress. The training for ICAT is anticipated to be completed by September 2024 and Use of Force training will be complete in December 2024. Upon completion of the training, Operations Order 1.5 will become effective.

Rec. #3: Discipline Issued for Improper Search Incident to Lawful Arrest

Response: Disagree

Target Date:
N/A

Explanation: The PPD disagrees with the OAT recommendation.

OAT cites "Under Operations Order 3.18.3.C.1(m) misconduct involving an unjustified search is specifically designated a Class II violation. Operations Order 3.18.3.C.1(m) completely states; "Unjustified arrest or search (willful false arrest or willful illegal search)." Whereas the OAT Monitoring Report states, "The involved Officer's contact and unlawful search is more accurately controlled by Operations Order 4.11 7 B and E" discussing a full body arrest, the sustained PSB investigation determined a violation of 4.10 (1) where the element of "Understanding", by the arrested party was not met; however, there was notification made, to the subject, of the impending arrest. PPD's analysis of this incident determined this was not a willful or intentional violation of policy and as such determined the conduct it to be a minor policy violation as described in 3.18 Addendum 2.B.

Rec. #4: Deviation from Discipline Under Policy

Response: Disagree	<u>Target Date:</u> N/A
<p>Explanation: PPD disagrees with OAT’s interpretation of policy regarding this recommendation.</p> <p>PPDs interpretation remains that this was not a Class II Violation but rather a minor policy violation as defined in 3.18 Addendum A 4.C, (1). Further PPD asserts training rather than discipline was warranted in this instance based on the contradictory guidance provided in Operations 4.41.5.D.5 <i>Trespassing - ARS 13-1502, 13-1503, and 13-1504</i>. Operations Order 4.41 has since been updated to remedy this issue and has been included in the new <i>Use of Force</i> training for all PD personnel that is currently in progress. Additionally, Operations Order 3.18.7.F(7) clearly states, “The Police Chief is the final authority on discipline.” The Chief has, when warranted, deviated to mitigate (as in this case) or aggravate the discipline an employee receives. This includes finding a case ‘out of policy’ that has been presented as ‘in policy’.</p>	
<p>Rec. #5: Actual Training Completed</p>	
Response: Agree	<u>Target Date:</u> June 21, 2024
<p>Explanation: The PPD agrees and accepts the OAT recommendation.</p> <p>The required training delivered to this involved officer was based on two approved lesson plans that were classified as ‘refresher’ training on <i>Search and Seizure</i> and <i>Detention Recruit: Laws of Arrest</i>. The training delivered to this officer met the learning objectives and content delivery identified in the PPD Training certification form and corresponding lesson plan for one hour of training for each refresher training. Given the dedicated and focused presentation of the content, the training was completed as prescribed by the involved officer.</p> <p>Follow up: Training requirements identified as outcomes of an administrative investigation will be accurately described. The completed training will be forwarded for inclusion in the PSB IAPRO Investigative peripheral links. This requirement will be added to the PSB Bureau Manual B-01.</p>	

Target dates are based on the organizational level that is impacted by the follow-up actions described above. For Bureau level policy and process changes, the target date is three months. For Department level policy and process changes, the target date is six months. These timeframes allow for review of current policy, the development and approval of new policy, and the development, approval, and delivery of training to more than 3,000 employees for Department level training. Training is delivered in multiple modalities using synchronous and asynchronous methods.