



# Office of Accountability and Transparency

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## Monitoring Report Incident OAT23-008

On March 4, 2023, a shoplifting suspect pointed a firearm at a store's loss prevention employee and the Involved Officer after he was confronted about stolen items. This resulted in an officer-involved shooting incident. No one was struck by the Involved Officer's gunfire.

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 March 4, 2023, the Involved Officer was working security in full uniform, but in an off-duty capacity, at a department store in west Phoenix. After a loss prevention employee confronted an individual suspected of shoplifting (the Involved Civilian), the Involved Civilian pulled out a gun and pointed it at the Involved Officer and then loss prevention employee. The Involved Officer responded by drawing his firearm and firing a single round in the Involved Civilian's direction. No one was struck by the Involved Officer's gunfire. The Involved Civilian fled through the store's rear exit. Other officers located and apprehended the Involved Civilian without further incident.

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. CIRB also recommended the Involved Officer participate in additional training related to "handgun/scenarios." 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 March 4, 2023. Exercising its mandatory authority, OAT sent the Police Chief and the City Manager a Monitoring Notice on March 8, 2023. 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 processes that could benefit from additional attention and greater transparency. OAT's recommendations for future investigations follow.

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

- March 4, 2023 – Officer-Involved Shooting incident
- March 8, 2023 – OAT noticed Department of intent to monitor
- May 16, 2023 – MCAO informs Department the Involved Officer’s actions were not criminal
- June 26, 2023 – OAT received initial internal investigative materials
- August 3, 2023 – Department concluded its administrative investigation
- October 10, 2023 – OAT received additional internal investigative materials
- November 7, 2023 – CIRB hearing and verbal announcement of *within policy* finding with the recommendation that the officer participate in additional training in “handgun/scenarios,” all of which was captured in a memo that CIRB sent to the Police Chief the same day
- November 8, 2023 – OAT received additional incident documents via a public records request
- January 29, 2024 – OAT received confirmation of the CIRB memo signed by the Police Chief concurring with CIRB’s recommendations
- April 9, 2024 – OAT completed Monitoring Report
- April 25, 2024 – OAT released Monitoring Report to the public and the media

### I. Incident

On March 4, 2023, at 10:56 a.m., the Involved Officer was working security in an off-duty capacity at a department store located at 6150 South 35th Avenue.<sup>5</sup> After the store’s loss prevention employee notified the Involved Officer of a suspected shoplifting occurrence observed on the store’s security system, the loss prevention employee confronted the suspect (the Involved Civilian) as the suspect was exiting the store. The

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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 and through the public records request process (See Appendix).

<sup>5</sup> As part of the officer’s duties, the Involved Officer was wearing his PPD-issued uniform, which included a body worn camera. His primary function was to support the store’s loss prevention employees when police intervention is necessary, including making trespass notifications and arrests, or standing by with loss prevention employees when they recover merchandise from suspected shoplifters.

Involved Officer followed the loss prevention employee but stood back and allowed that person to initiate the interaction.

Shortly after the loss prevention employee engaged with the Involved Civilian over the stolen items, the Involved Civilian presented a handgun and pointed it at the loss prevention employee and the Involved Officer. The Involved Officer responded by drawing his firearm and discharging one round towards the Involved Civilian, which missed. The Involved Civilian retreated into the store and escaped through a rear exit door.

Other Department personnel located and apprehended the Involved Civilian in a nearby neighborhood without further incident. The handgun used by the Involved Civilian was also located in the same area. It was later determined that no one was struck or otherwise injured by the Involved Officer's firearm discharge.

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

The Department's Professional Standards Bureau conducted the administrative investigation. According to PSB, its investigation included being called to the scene and reviewing body-worn camera video footage, recorded interviews, and incident reports. PSB's initial investigation focused on the Involved Officer's use of deadly force and his late activation of his body worn camera.

On November 7, 2023, PSB made an in-person presentation to CIRB during a scheduled hearing. At the conclusion of the CIRB hearing, CIRB members went into closed-session deliberations.<sup>6</sup> Approximately 10 minutes later, the CIRB concluded its deliberations and the chairperson announced that the Board found the Involved Officer's use of deadly force within policy.<sup>7</sup> The CIRB chairperson also stated that their recommended finding would be forwarded to the Chief of Police for his review and

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<sup>6</sup> 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.

<sup>7</sup> The 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>.

decision. Just prior to announcing the finding, the CIRB chairperson conveyed that the deliberations took additional time because the members discussed the Involved Officer discharging his firearm into the store where shoppers and others were present.

Neither the PSB investigative report nor their presentation to CIRB included any additional information about the Involved Officer's late body worn camera activation. PSB verbally informed OAT in response to their inquiry about the late activation, that they found the Involved Officer's explanation—because matters unfolded unexpectedly and too quickly—was an acceptable excuse under Department policy. As a result, PSB dismissed the late body worn camera activation allegation.

### **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>8</sup>

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 in future investigations, which are detailed in the following section of this report.

#### **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

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<sup>8</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.

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.<sup>9</sup> 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.

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<sup>9</sup> Phoenix Police Dep't., PROFESSIONAL STANDARDS BUREAU MANUAL, B-5 § 4(B)(3), p. 41 (Rev. Feb. 2022).

## **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
Redaction Notice – No entries	Undated	October 10, 2023
PSB Internal Investigation Report	August 3, 2023	October 10, 2023
Notice of Investigation	March 4, 2023	October 10, 2023
Materials List	March 4, 2023	October 10, 2023
Investigative Review Control Form	August 2, 2023	October 10, 2023
Weapon Score Sheet	June 1, 2023	October 10, 2023
PSB Employee(s) Paperwork	March 4, 2023	October 10, 2023
PSB Civilian(s) Paperwork	March 4, 2023	October 10, 2023
Single Image Inside Store	Undated	October 10, 2023
Decision Letter from Maricopa County Attorney's Office	May 16, 2023	October 10, 2023
Involved Officer BWC	March 4, 2023	June 26, 2023
Additional Officer's BWC	March 4, 2023	June 26, 2023
Involved Officer PSB Interview	March 4, 2023	June 26, 2023
Store Entryway Security Video Footage	March 4, 2023	June 26, 2023
CIRB Memo with Chief's Signature	November 7 <sup>10</sup>	January 29, 2024
IR 2023-326723 PPD Public Records Request	March 4, 2023	November 8, 2023

<sup>10</sup> While the CIRB memo is dated, it is unclear when the Chief signed it.

**MONITORING CASE DETAILS**

<b>Monitoring Report Date:</b>	April 25, 2024
<b>OAT Monitoring Case #:</b>	23-008
<b>Classification of Monitoring Case:</b>	Mandatory
<b>Police Incident Report #:</b>	202300000326723
<b>Incident Date &amp; Time:</b>	March 4, 2023, approximately 10:55 a.m.
<b>Location:</b>	6150 S 35 <sup>th</sup> Ave, Phoenix, AZ
<b>OAT Monitoring Notice Sent:</b>	March 8, 2023
<b>Department Administrative Case #:</b>	SH23-0008
<b>Department-Issued/CIRB Findings:</b>	Within Policy (CIRB & Police Chief Concurs), with a training recommendation
<b>Date of Administrative Finding:</b>	November 7, 2023
<b>Officer(s) Involved:</b>	(1) Involved Officer
<b>Officer(s) Injury Level(s):</b>	None
<b>Civilian(s) Involved:</b>	(1) Involved Civilian
<b>Civilian(s) Injury Level(s):</b>	Non-fatal, not struck by gunfire
<b>Complainant(s):</b>	No Known complainants