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Thursday, November 30, 2023

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## Department of Justice Investigation Update

This report provides information relating to the United States Department of Justice (DOJ) Investigation into the Phoenix Police Department (PPD).

### Summary

Since the Department of Justice announced its investigation into the Phoenix Police Department on Aug. 5, 2021, large numbers of City staff, including members of the Phoenix Police Department, have supported and participated in the investigation. The City has posted regular reports to update the community on the investigation. See prior updates on June 30, 2022, Jan. 19, March 23, April 27, May 25, June 29, Sept. 28, and Oct. 26, 2023.

This report provides an update on the investigation's five focus areas, the City's upcoming Coordinated Educational Campaign, fulfillment of the DOJ's information requests, status of Phoenix Police Department's modernization steps, as well as an overview of investigations in other communities and possible outcomes.

The investigation mainly focuses on five areas:

- Excessive force in violation of the Fourth Amendment.
- Discriminatory policing that violates the Constitution and Federal Law.
- Retaliation against those engaged in First Amendment-protected activities.
- Violations of the Americans with Disabilities Act (ADA) related to behavioral health disabilities.
- Violations of the rights of individuals experiencing homelessness with regards to the disposal of their property.

The investigation has also probed issues such as training, supervision, and accountability.

### Community Information Resources

The City will produce a variety of community information resources and provide community engagement opportunities to help share information on key topics related to the investigation and the numerous steps the City and Phoenix PD have taken to

modernize and improve the department.

Staff will provide information on how the City has cooperated with the DOJ throughout the investigation, and possible next steps. As part of this information, staff will include critical initiatives and reforms that had previously been implemented and program and policy changes that are already underway.

Community outreach with updated information will be shared through presentations to neighborhood and community groups, advisory board presentations, meetings with members of the media and creation of content such as videos, graphics, newsroom stories, and informational social posts on city-owned platforms. All information and resources on the DOJ Investigation will be made available in a newly created section of phoenix.gov/DOJ website. Staff intends for this additional new resource to be a helpful tool for a single location of factual information.

### **Update on Document and Video Sharing**

The DOJ has made four formal requests for production of documents containing 234 specific requests. In response, the City has provided:

- More than 147,324 documents.
- Approximately 20 terabytes of data from multiple systems.
- Approximately 22,458 body-worn camera videos.
- Approximately 200 recordings of 911 calls.
- Interviews of over 130 PPD and City employees, including the City Manager and Interim Police Chief.
- 200 hours of ride-alongs with PPD.

### **Emphasis on De-escalation Training**

In an effort to continually improve training and align with national best practices, the Phoenix Police Department has implemented Active Bystandership for Law Enforcement (ABLE) and ICAT (Integrating Communications, Assessment and Tactics) trainings. ABLE prepares officers to successfully intervene to prevent harm and to create a law enforcement culture that supports peer intervention. This training delivers practical, scenario-based training for police agencies in the strategies and tactics of police peer intervention. ICAT is a scenario-based training for times when officers encounter volatile situations with erratic and potentially dangerous subjects who are not armed with a gun. This training involves teaching officers the necessary skills to address cases where officers may have otherwise used lethal force when the subject was either unarmed or armed with a knife, or other weapon, but not a firearm. In some of these cases, the individuals involved could be experiencing a mental or behavioral health crisis.

Below is an update on the number of trained personnel as of Nov. 20, 2023:

- ABLE Training: 1,592 (47 percent of the Department). Staff plans to train 200 to 300 people per month with the goal of training all sworn staff by the end of 2024.
- ICAT Training: 473 personnel trained.
- Crisis Intervention Team Certified Officers: 521 officers (not including other City employees such as Park Rangers, Dispatchers, CAP personnel, etc.).

### **Mental Health Call Diversion**

In June of 2021, the City Council approved the City Budget for the Fiscal Year 2021-22, which included \$15 million to expand the Community Assistance Program (CAP). The CAP is a proven model to assist residents who have experienced a traumatic event, behavioral health crisis, or are experiencing other social welfare concerns. The CAP is the foundation of our efforts to address those community needs that do not expressly align with the mission of traditional emergency and public safety services. To meet the diverse needs of those we serve, the CAP team continues collaborating with community partners and connecting individuals with appropriate resources.

In August of 2022, CAP staff provided training to Police Department Communications personnel and updated the existing policy to direct operators to divert mental health calls to the appropriate resources. CAP and Police Department Communication staff developed questions to ask to identify calls with a mental health component and to determine which calls should be diverted to a City of Phoenix Behavioral Health Team and which calls should be diverted to a Solari Crisis and Human Services Team. CAP and Solari placed caseworkers within Police Communications to provide support and guidance to operators on decision-making. Police Communications saw a consistent increase in calls being sent to a mental health partner.

- Phoenix 911 dispatchers diverted 152 calls to the Community Assistance Program (CAP) in the month of September. This is up from 128 in August.
- Phoenix 911 dispatchers diverted roughly 600 calls per month to the 988 crisis line.

Call diversion to mental health clinical partner Solari has increased each year since 2019.

- 2019: 1,703 calls to Solari
- 2020: 4,392 calls to Solari
- 2021: 5,559 calls to Solari
- 2022: 7,300 calls to Solari

Upon assessing a scene for safety, Phoenix Police officers currently divert 10,000 to

15,000 people to the mental health system per year.

### **Other Pattern or Practice Investigations Recently Opened by DOJ**

#### *Lexington, Mississippi*

On Nov. 8, 2023, the Department of Justice announced that it has opened a civil pattern or practice investigation into the City of Lexington, Mississippi, and the Lexington Police Department. Lexington is roughly an hour outside of Jackson, Mississippi and has approximately 1,600 residents. The Investigation will focus on these areas:

- Use of force.
- Potential discriminatory policing practices.
- First amendment rights.
- Comprehensive review of policies, training, supervision and systems of accountability.

#### *Trenton, New Jersey*

On Oct. 17, 2023, the Department of Justice announced it has opened a civil pattern or practice investigation into the City of Trenton, New Jersey and the Trenton Police Department. The investigation will focus on the following areas:

- Use of force.
- Review of policies, training and supervision.
- Complaint intake.
- Internal investigation protocols.
- Complaint reviews, adjudication and discipline.

### **Potential Outcomes: Technical Assistance Letters**

City staff reviewed the history of DOJ Investigations and identified 21 instances since 2002 in which the DOJ issued a Technical Assistance Letter (TAL) instead of a Findings Report. The last known TAL is dated Sept. 4, 2012. See attached **Attachment A** for more information.

### **Responsible Department**

This item is submitted by City Manager Jeffrey Barton and the Law Department.

## Attachment A

### **Overview of Communities Receiving Technical Assistance Letters**

1. Detroit Police Department (DPD) – The letter was not meant to be exhaustive, but rather focused on significant concerns identified by the DOJ. The DOJ provided recommendations based on their review of the DPD's policies and procedures.
2. Cleveland (Ohio) Division of Police (CPD) – Technical Assistance Letter, July 23, 2002
  - Investigation remained open for an additional two years, and in 2004, DOJ reached an agreement with the city to implement a Memorandum of Agreement, which concluded in 2005.
  - A second pattern or practice investigation of CPD was opened in 2013 and resulted in a Findings Report and a court-ordered settlement agreement that was implemented in 2015. It remains in effect today.
3. Charleston (WV) Police Department – Technical Assistance Letter, 2003
  - Closed Nov. 12, 2003, with no Findings Report
4. Miami (FL) Police Department – Technical Assistance Letter, March 13, 2003
  - Closed May 19, 2006, with no Findings Report
  - A second pattern or practice investigation of MPD was opened in 2011 and resulted in a Findings Letter and a Memorandum of Agreement implemented in 2016 (concluded 2021)
5. Schenectady (NY) Police Department – Technical Assistance Letter, March 19, 2003
  - Closed January 9, 2013, with no Findings Report
6. Portland (Maine) Police Department – Technical Assistance Letter, March 21, 2003
  - Closed June 27, 2005, with no Findings Report
7. New Orleans (LA) Police Department – Technical Assistance Letter, 2004
  - Closed March 23, 2004, with no Findings Report
  - A second pattern or practice investigation of NOPD was opened in 2010 and resulted in a Consent Decree implemented in 2013, which is still in effect.
8. Bakersfield (CA) Police Department – Technical Assistance Letter, April 12, 2004
  - Closed Jan. 25, 2008, with no Findings Report
9. Alabaster (Ala.) Police Department – Technical Assistance Letter, Nov. 9, 2004
  - Closed Sep. 7, 2005, with no Findings Report
10. Beacon (NY) Police Department – Technical Assistance Letter (TAL), June 21, 2005
  - Second TAL issued by DOJ in 2008
  - Investigation remained open for an additional two years, and in 2010, the DOJ reached an agreement with the city to implement a Memorandum of Agreement which concluded in 2016.

11. U.S. Virgin Islands Police Department – Technical Assistance Letter, Oct. 5, 2005
  - Investigation remained open for an additional four years after the TAL, and in 2009, the DOJ reached an agreement with the city to implement a Consent Decree that remains in effect today (longest-running active Consent Decree)
12. Warren (Ohio) Police Department – Technical Assistance Letter , March 2, 2006
  - Investigation remained open for an additional six years, and in 2012, the DOJ reached an agreement with the city to implement a court-ordered settlement agreement, which concluded in 2019.
13. Easton (PA) Police Department – Technical Assistance Letter, Nov. 26, 2007
  - A total of 3 TAL's issued to Easton PD by DOJ; ultimately, a Memorandum of Agreement was implemented by DOJ on August 6, 2010, due to TAL "non-compliance" by the agency, even though the letters were not binding.
  - Originally intended to last one year, DOJ extended the MOA to 5 years.
  - Agreement concluded July 27, 2015, with no Findings Report issued.
14. Orange County (FL) Sheriff's Office – Technical Assistance Letter, August 20, 2008
  - Investigation remained open for an additional two years, and in 2010, the DOJ reached an agreement with the county to implement a Memorandum of Agreement, which concluded in 2013
15. Austin (TX) Police Department – Technical Assistance Letter , Dec. 23, 2008
  - Closed May 27, 2011, with no Findings Report
16. Yonkers (NY) Police Department – Technical Assistance Letter , June 9, 2009
  - Investigation remained open for an additional seven years after the TAL, and in 2016, DOJ reached an agreement with the city to implement a Memorandum of Agreement, which remains in effect
17. Inglewood (CA) Police Department – Technical Assistance Letter, Dec. 28, 2009
  - Closed Oct. 14, 2015, with no Findings Report
18. Suffolk County (NY) Police Department – Technical Assistance Letter , Sept. 13, 2011
  - Despite the issuance of a TAL, the DOJ pursued a binding, out-of-court settlement agreement that was approved by the Suffolk County Legislature on January 1, 2014; the Agreement remains in effect today.
  - No Findings Report was ever issued regarding SCPD.
  - DOJ serves as the Settlement Agreement monitor; On Jan. 23, 2023, DOJ issued the department in compliance.
19. Harvey (IL) Police Department – Technical Assistance Letter, Jan. 18, 2012
  - Closed Jan. 24, 2012, with no Findings Report
20. Lorain (Ohio) Police Department – Technical Assistance Letter, May 16, 2012
  - Closed May 22, 2012, with no Findings Report
21. Escambia County (FL) Sheriff's Ofc. Technical Assistance Letter, Sept, 4, 2012
  - Closed Oct. 4, 2012, with no Findings Report





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**Response to Citizen Request for Information: Jerry Carlton**

This report provides the City Council with information in response to a request from Mr. Jerry Carlton submitted at the Nov. 15, 2023, Formal City Council meeting regarding Rogers Ranch Park.

**THIS ITEM IS FOR INFORMATION ONLY.**

**Summary**

The attached document (**Attachment A**) was submitted to the City Council regarding the undeveloped park property at Rogers Ranch at the Nov. 15, 2023, Formal Meeting. The Parks and Recreation Department and the Parks and Recreation Board have engaged in discussions and have had ongoing correspondence with a Rogers Ranch 2 Homeowners Association representative, Michael Norton, regarding the undeveloped park property at 47th Avenue and Alta Vista Road "Rogers Ranch". The department is aware of the community's interest to see this site developed into a park and their concerns regarding the protection of burrowing owls. The Parks and Recreation Department has staff who are certified in Burrowing Owl Management and works closely with the City's Office of Environmental Programs (OEP) to ensure protection of burrowing owls on park property. At this time, development of this park site is not currently included in the Parks and Recreation Department's Five-Year Capital Improvement Plan. The Parks and Recreation Board has the authority and discretion to address concerns and make decisions regarding park property. The citizen comment will be forwarded to the Parks and Recreation Board for consideration.

**Responsible Department**

This item is submitted by Deputy City Manager Inger Erickson and the Parks and Recreation Department.

# Attachment A

## Rogers Ranch Residents Committee

C/O Vision Community Management  
16625 S. Desert Foothills Parkway  
Phoenix, AZ 85044

CITY CLERK DEPT.  
2023 NOV 16 AM 8:35

November 15, 2023

To: City of Phoenix, Mayor Gallego, Vice Mayor Ansari and City Council

Re: Please Do Not Ignore Rogers Ranch – Our Petition

My name is Jerry Carlton, a long-time resident of Laveen and Rogers Ranch. I speak today on behalf of my colleagues who have founded with me the Rogers Ranch Residents Committee. RRRC is an informal advocacy group. We don't seek donations. We don't conduct business. We do form a platform for others in the community to join in with us to speak out on behalf of our neglected neighborhood.

I started my professional career in public service. I was appointed to work for the Department of Labor during a period a Democrat was our President. As Republicans were elected President, I was reappointed and continued to serve for all or parts of three more Presidential terms. I reported directly to the Secretary of Administration and Project Management.

During my career as a public servant, I learned one critical lesson. We could disagree with our constituents. We could take actions that not all of them approved. But we could never simply ignore them when they presented real issues that we knew we should and must address.

The City has ignored its obligations to Rogers Ranch for decades. Occasionally we receive some kind of communication telling us why our Park should not be built and why we should somehow be happy with that answer (since other Laveen area parks were being built). But not once has the City of Phoenix engaged with us in any meaningful discussion about the future of our land.

~~2023 NOV 16 AM 8:36~~

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**OUR PETITION**

**First: We Petition the City and other government organizations to engage in agendized discussions about options to fund the construction of Rogers Ranch Park. We request that the Park be placed on the Agendas of both the Parks & Recreation Board as well as City Council**

**Second: If the City is unable to promise to fund the development of Rogers Ranch Park sooner than the end of Fiscal Year 2025, we Petition the City to deed the vacant lot that should be a Park back to the Rogers Ranch 2 Master Planned Community.**

**Third: Burrowing Owls have made the dirt lot their home. There is a legal duty to protect them. We Petition the City to Agendize that issue. The owls will soon begin mating season. There must be a formal plan in place to assure that the City does not, once again, use construction equipment to blade the owl colony flat and to assure that the Burrowing Owls are protected.**

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Respectfully submitted on behalf of the residents who serve as Rogers Ranch Residents Committee

**Jerry Carlton, Phoenix Resident and Committee Chair**

/s/ Jerry Carlton

Cc: Rogers Ranch 2 Board and HOA Mgmt. Representative, Shawn Nurse