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Office of Accountability and Transparency

Monitoring Report
Incident OAT23-032

On January 19, 2023, a use of force incident occurred near 30th Street and West Bell Road in north Phoenix in which a Phoenix Police Department officer broke a civilian's arm while handcuffing him.

This report contains OAT's review of the administrative investigation completed by the Department following the incident and provides recommendations to improve future investigations.

July 31, 2024

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 reviews 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 review Department administrative investigations.¹

Specifically, P.C.C. § 20-6, requires OAT to review administrative investigations of:

- officer-involved shootings;
- deaths in-custody;
- any duty-related incidents resulting in 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 review:

- 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 January 19, 2023, the Involved Officer and his partner pursued and arrested the Involved Civilian in connection with a stolen vehicle. As the Involved Officer was handcuffing the Involved Civilian, he broke the Involved Civilian's arm. Body-worn camera (BWC) footage confirmed officers' awareness that the Involved Civilian's right arm had likely been broken during the handcuffing process. BWC footage later captured the Involved Officer pulling the Involved Civilian to his feet by his right, injured arm, without taking any precautions or showing any regard for the Involved Civilian's injury. The Involved Officer also appeared to intentionally move the injured arm in such a way to increase the Involved Civilian's pain while questioning him about items officers suspected he may have discarded while fleeing from police.

The Department's Force Evaluation Team (FET) completed an investigation of the handcuffing force used by the Involved Officer. Based on FET's review, the Department chain of command concluded that the Involved Officer's use of force in this incident was within policy, however they recommended that the Involved Officer attend additional trainings in defensive tactics, prone handcuffing, and subject control.

OAT learned of this incident on April 27, 2023, when the Involved Civilian's father submitted a complaint to OAT. Exercising its discretionary authority, OAT sent the Police Chief and the City Manager a Monitoring Notice on October 23, 2023.⁴ After review, OAT concludes that the Department's administrative investigation was not thorough and complete. OAT's recommendations for future investigations follow.

⁴ Despite P.C.C. § 20-6 giving OAT mandatory oversight over duty-related incidents resulting in serious bodily injury, OAT sent notice under its discretionary authority as OAT did not have independent confirmation that the Involved Civilian sustained a broken arm during the incident and did not receive notification from the Department per P.C.C. § 20-6(E) and MOU.

FACTUAL AND PROCEDURAL HISTORY⁵

- January 19, 2023 – Incident
- February 23, 2023 – PSB determination that force was within policy
- March 7, 2023 –FET decision that the force was within policy with recommended additional training
- April 27, 2023 – Involved Civilian’s father submitted complaint to OAT alleging excessive force
- June 13, 2023 – Department closed case; Commander confirmed incident was “In policy with additional training completed”
- June 22, 2023 – OAT referred complaint to Department
- October 23, 2023 – OAT noticed Department of intent to monitor
- November 29, 2023 – OAT received initial Department administrative review materials
- January 2, 2024 – OAT received additional incident documents via December 15, 2023, public records request
- July 31, 2024 – OAT released Monitoring Report

I. **Incident**

On the evening of January 19, 2023, the Involved Officer and his partner arrested the Involved Civilian following a brief vehicle pursuit after he was seen driving a suspected stolen vehicle. After the Involved Civilian stopped and abandoned the suspected stolen vehicle, the Involved Officer and his partner engaged in a foot pursuit, in which they issued commands for the Involved Civilian to stop and get on the ground. As the Involved Civilian began to get on the ground per officers’ commands, the Involved Officer’s partner who reached the civilian first, got on top of

⁵ See Appendix A (p. 9) for a detailed list of the information and materials OAT received from PSB and through the public records request process.

the Involved Civilian and began pulling one of his arms behind his back and told him to stop resisting. Seconds later, the Involved Officer arrived and assisted in handcuffing the Involved Civilian. The Involved Civilian stated that he was down and not resisting. As the Involved Officer brought the Involved Civilian's right arm behind his back, the Involved Civilian cried out and the Involved Officer's partner stated that the Involved Civilian's arm may have been broken.

The Involved Officers handcuffed the Involved Civilian and moved him to sit on the pavement. The Involved Civilian stated that his arm was broken, to which the Involved Officer replied, "Well, you shouldn't have resisted." After the Involved Civilian made additional statements that his arm was broken, the Involved Officer asked him, "What did you throw over there, man?" The Involved Officer and his partner told the Involved Civilian that the police air unit saw him toss something while fleeing from police. The Involved Civilian did not respond to the questions and instead continued to complain about the pain in his arm and how badly it was broken. The Involved Officer told the Involved Civilian to stand up, then pulled him up to his feet by his right, injured arm. The Involved Civilian cried out in pain, saying, "I will do anything," and, "It's breaking." In response, the Involved Officer appeared to move the Involved Civilian's injured arm upwards in a manner that caused additional pain. The Involved Civilian cried out again in pain and stated that he was willing to, "do anything [the Involved Officer] want[ed]" and pleaded for him to stop.

As the Involved Officer and his partner led the Involved Civilian across a parking lot, they were met by another officer who asked the Involved Civilian, "What did you ditch?" The Involved Officer began yelling about their proximity to a school, and asked the Involved Civilian again, "What did you drop?" The Involved Civilian cried out again in pain and stated, "Ow, you are breaking my arm more." The Involved Officer responded by yelling, "Okay. What did you drop?" This time, the Involved Civilian responded by telling the Involved Officer, "The drugs are over there." The Involved

Officer responded, “What are they, blues?”⁶ Throughout this exchange, the Involved Civilian is bent forward because of how the Involved Officer is leveraging his handcuffed and broken arm, and his facial expression suggests that he is in extreme pain. After the Involved Civilian confirmed that the drugs that he tossed were blues, he pleaded with the Involved Officer to lower his injured arm, stating, “You are breaking my arm.”⁷ The Involved Officer responded, “It is already broke [*sic*], bro.”

The Involved Civilian was then led to a police vehicle officers continued to question him about the location of the suspected drugs. Eventually, the Involved Civilian was transported to a hospital and treated for a broken right arm.

II. The Phoenix Police Department’s Investigation

The Department’s Force Evaluation Team (FET) reviewed the Involved Officer’s use of force in this incident. Following FET’s review, the Department’s chain of command—which included the Commander of the Department’s Professional Standards Bureau (PSB)—concluded that the Involved Officer’s use of force in this incident was within policy. The Department’s finding included a recommendation that the Involved Officer attend refresher training in defensive tactics, prone handcuffing, and subject control. According to documents provided by the Department, the Involved Officer completed the trainings in April and May of 2023, and the Department had closed the incident by the end of June.

⁶ “Blues” are counterfeit oxycodone pills that are often laced with fentanyl or other substances. Hayes, S. (2023, June 6). *The Fatal Blues*. FBI Law Enforcement Bulletin. <https://leb.fbi.gov/articles/featured-articles/the-fatal-blues>.

III. Investigative Sufficiency

Under P.C.C. § 20-10, OAT is tasked with reviewing any Department administrative investigation it reviews to ensure that it is thorough and complete.⁸ Based on its review, OAT concludes that the investigation was not thorough and complete.

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

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 and response to resistance incidents resulting in serious injury or which have the potential for City liability as matters that are classified for a full-scale PSB investigation.⁹ In this incident, the Involved Civilian suffered a broken arm in the process of being handcuffed, which alone qualifies the incident for a full-scale PSB investigation due to the seriousness of the injury.

However, the Involved Officer's actions after the Involved Civilian was handcuffed, namely 1) the Involved Officer's disregard for the Involved Civilian's broken arm as he lifted the Involved Civilian to his feet and purposefully manipulating the Involved Civilian's broken arm and/or body so as to inflict additional and obvious pain while yelling at the Involved Civilian to divulge information about items he allegedly tossed during his flight from police,

⁸ 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.

⁹ Phoenix Police Department. (Rev. Feb. 2022). *Professional Standards Bureau Manual* (p. 24).

warranted serious allegations of misconduct. Taken together with the seriousness of the injury, this incident satisfied two of the three provisions for opening a PSB investigation.

OAT recommends that the Department implement a force and/or supervisory review process that immediately flags serious injuries and properly identifies actions deserving of allegations of serious misconduct so that similar incidents are properly routed to PSB for a full-scale investigation.

2. Refer Incidents of Similar Severity to the Critical Incident Review Board

Per Operations Order 3.18 sections 11(B)(1) and 11(B)(4), the Department should have referred this matter to the Critical Incident Review Board (CIRB). The CIRB is empowered to conduct reviews of Class III incidents, which are “response to resistance incidents . . . [when] serious injury is inflicted upon a person by an employee . . . by means other than a firearm.”¹⁰ Section 11(B)(4) mandates the referral: “[a]ll Class III incidents will *automatically* be reviewed by the Critical Incident Review Board.”¹¹ Given the nature of the injuries sustained by the Involved Civilian, this qualifies as a Class III incident, mandating a referral to the CIRB.

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 August 30, 2024.

¹⁰ Phoenix Police Department. (Rev. June 2021). *Operations Orders 3.18.11.B(1 & 4)*.

¹¹ Phoenix Police Department. (Rev. June 2021). *Operations Orders 3.18.11.B(4)*.

APPENDIX A**INVESTIGATIVE MATERIALS LIST**

Items	Department Date	Date to OAT
Force Evaluation Team Blue Team Report	Various	November 29, 2023
Response to Resistance Blue Team Report	Various	November 29, 2023
Incident Calls for Service 23000096162	January 19, 2023	November 29, 2023
Notification Response to Resistance 23000096162	January 26, 2023	November 29, 2023
Involved Officer Required Training-related documents	Various	November 29, 2023
Photos	January 19, 2023	November 29, 2023
Axon Body 3 Video 2023-01-19 2225 X6032173F (Involved Officer)	January 19, 2023	November 29, 2023
Axon Body 3 Video 2023-01-19 2225 X6032514M (Partner)	January 19, 2023	November 29, 2023
Axon Body 3 Video 2023-01-19 2315 X6031058Z	January 19, 2023	January 8, 2024
Axon Body 3 Video 2023-01-19 2249 X6032712M	January 19, 2023	January 8, 2024
Axon Body 3 Video 2023-01-19 2248 X6031058Z	January 19, 2023	January 8, 2024
Axon Body 3 Video 2023-01-19 2246 X60326449	January 19, 2023	January 8, 2024
Axon Body 3 Video 2023-01-19 2240 X6032712M	January 19, 2023	January 8, 2024
Axon Body 3 Video 2023-01-19 2236 X60321401	January 19, 2023	January 8, 2024
Axon Body 3 Video 2023-01-19 2235 X60326449	January 19, 2023	January 8, 2024
Axon Body 3 Video 2023-01-19 2232 X60326449	January 19, 2023	January 8, 2024
Axon Body 3 Video 2023-01-19 2230 X6031058Z	January 19, 2023	January 8, 2024
Axon Body 3 Video 2023-01-19 2228 X6032712M	January 19, 2023	January 8, 2024
Axon Body 3 Video 2023-01-19 2228 X60326449	January 19, 2023	January 8, 2024
Axon Body 3 Video 2023-01-19 2225 X60326449	January 19, 2023	January 8, 2024
Axon Body 3 Video 2023-01-19 2225 X6032712M	January 19, 2023	January 8, 2024
Axon Body 3 Video 2023-01-19 2219 X60326449	January 19, 2023	January 8, 2024
Axon Body 3 Video 2023-01-19 2219 X6032712M	January 19, 2023	January 8, 2024
Incident Report 2023-0096162 (Public Records Request)	~January 19, 2023	January 2, 2024

APPENDIX B**MONITORING CASE DETAILS**

Monitoring Report Date:	July 31, 2024
OAT Monitoring Case #:	23-032
Monitoring Case Classification:	Discretionary/Mandatory– OAT originally identified its authority to monitor this matter as falling within its discretionary authority. Later in the process, it was confirmed that the Involved Civilian sustained a broken arm. As such, the appropriate classification of this monitoring case is mandatory.
Police Incident Report #:	202300000096162
Incident Date & Time:	January 19, 2023, 10:17 p.m.
Location:	3000 W. Bell Rd., Phoenix, AZ
OAT Monitoring Notice Sent:	October 23, 2023
Department Administrative Case #:	FET23-0013
Department-Issued Findings:	Within Policy with Training Recommendation – Defensive Tactics, Prone Handcuffing, and Subject Control
Administrative Finding Date:	March 7, 2023 (Initial) & June 13, 2023 (Final & Closed)
Officers Involved:	(1) Involved Officer
Officer Injuries:	None
Civilian(s) Involved:	(1) Involved Civilian
Civilian Injuries:	Broken Right Arm
Complainant(s):	Involved Civilian’s father via OAT – excessive force complaint received by OAT Director on April 27, 2023. OAT Director referred complaint to the Department on June 22, 2023.