



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 23, 2023 – OAT noticed Department of intent to monitor
- January 17, 2023 – OAT received initial disclosures from Department
- February 22, 2024- OAT sent public records request for disclosure
- October 4, 2023- Department concluded its administrative review
- 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 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 K-9 Officer attempted to get the canine to release the Involved Civilian by using a choke or neck-pull, rather than verbal commands; however, the canine continued to bite the Involved Civilian's right arm for approximately 20-seconds. This sustained bite occurred after the responding officers had gained control of Involved Civilian by his other arm and were placing him in handcuffs. The detention and handcuffing seemingly eliminated any immediate threat Involved Civilian would have then posed to responding officers or bystanders.

The Involved Civilian was transported and admitted to the hospital for treatment of the 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 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 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.⁶ In this incident, the Involved Officer was presented with facts that could support an allegation of excessive force—a serious misconduct allegation—due to the prolonged bite. The RTR shows that the Involved Civilian was admitted to the hospital for injuries he sustained due to the canine bite. Both of which raise the potential for City liability. All three possible indicators that the incident should have been fully investigated by PSB were present.

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.

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

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. Prior to the canine being released, the Involved Civilian verbalized he was coming out and further stated that he did not want to get bitten. Shortly after being ordered to come out, the Involved Civilian presented himself to the officers. After the Involved Civilian presented himself, he stepped back out of the responding officers' view. The canine was then released, which resulted in the canine biting the Involved Civilian's arm, and maintaining the bite for at least 20-seconds, while responding officers detained the Involved Civilian.

A full PSB investigation would have included a recorded interview of the Involved K-9 Officer. This would have afforded the Department the chance to fully understand why the Involved K-9 Officer deployed the canine, and perhaps more importantly, why the bite sustained after gaining compliance. The Involved K-9 Officer should have been asked to explain how his deployment of the canine and the length of the bite time was supported by policy and training.

In detailing best practices when using K-9 unites, 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

In this incident, the canine continued to bite the Involved Civilian after a responding officer had secured the Involved Civilian's left arm behind his back—for long enough that the responding officers could not handcuff both hands because his right arm was still in the dog's mouth. These facts show that it is possible that the bite extended beyond the moment where "the suspect pose[d] no immediate threat to officers or others" and as such, investigators should have

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

explored the Involved Officer's reasoning for allowing the prolonged bite. A full PSB investigation, including interviewing the Involved Officer, would have afforded the K-9 Officer the opportunity to explain how and why the canine bite lasted the length it did, and how the use of the canine was reasonable and necessary, based upon policy and training. This would have also provided any future reviewer of the incident, the proper context in which to evaluate the use of force.

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.

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
PSB Report Attachments		
RTR Report	August 27, 2023	January 17, 2024
PGP Report	October 4, 2023	January 17, 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