

# **OFFICE OF ACCOUNTABILITY AND TRANSPARENCY**



**ANNUAL REPORT 2022**

March 30, 2023

On May 19, 2021, the Phoenix Mayor and City Council approved the establishment of the Office of Accountability and Transparency (OAT). The OAT is the City of Phoenix's version of civilian review of the Phoenix Police Department.

The initial ordinance and goal of the OAT was to investigate complaints about police officers. In 2021, the Arizona State Legislature passed HB2721 which restricted OAT operations strictly to monitoring cases unless two-thirds of the OAT staff were law enforcement. The City of Phoenix already has a bureau within the Phoenix Police Department where law enforcement investigates cases against other law enforcement known as the Professional Standards Bureau. In keeping with the City of Phoenix Ordinance and State Law, the OAT received approval to move forward with civilian staff and to monitor cases.

Police reform and civilian review can co-exist. One does not take away from the other. Partnership and collaboration are nothing new to the City of Phoenix and the Phoenix Police Department. The City's Family Advocacy Center was established in 1999 to assist victims of domestic violence and sexual abuse in a one central location, which was a partnership between the City Manager's Office and the Phoenix Police Department as well as Municipal Court, City Prosecutor's Office, Human Services Department, and health and social service providers. This model still exists 24 years later. Similarly, the OAT is a collaboration and partnership with the City Manager's Office and the Phoenix Police Department.

We hired OAT Director Roger Smith in December 2021. Since that time, Director Smith has been busy working with the City Manager's Office, the Phoenix Police Department, and other City departments to get the OAT up and running including identifying and reallocating positions, hiring and training employees, identifying a location and building out the office, and monitoring cases. Additionally, Director Smith has conducted extensive community outreach getting input, feedback, complaints, and commendations from community members and introducing the OAT.

The OAT began to issue monitoring notices to the Phoenix City Manager and the Phoenix Police Chief in September 2022. To date, a total of 22 notices have been issued and are being monitored by the OAT. This 1<sup>st</sup> Annual Report provides an update on the OAT's work from January 1, 2022 through December 31, 2022, and lays the framework for future reports to come.

Thank you to the Phoenix City Council, City leadership and the Community for the opportunity to serve the residents of Phoenix to ensure accountability and transparency within the Phoenix Police Department.

Ginger Spencer  
Deputy City Manager  
City of Phoenix

## FORMATION AND FORWARD

Between January 1, 2018 and March 14, 2023, the Phoenix Police Department has had 132 officer-involved shootings.<sup>1</sup> Of these, 68 have been fatal.

These numbers place an inescapable urgency on the search to identify causes of this problem as well as the quest for solutions. Many things have been tried. Rules related to the use of force have been changed and are currently in the process of being modified for the second time in the past year. Training has been updated to incorporate new practices on de-escalation, less lethal weapons usage and an officer's responsibility to intervene when witnessing excessive force.

But in May 2021, Phoenix took an important step. To other measures in progress, Phoenix added the Office of Accountability and Transparency. The process was challenging, at times contentious. Some supporters wanted OAT to focus on investigation. Others wanted OAT to concentrate on different tasks including mediation and support for community members affected by police incidents. But consensus built around the central point: the time had come for the Phoenix community to have a greater role, and a greater say, in the way they are policed.

The vision set forth in Section 20 of the Phoenix City Code is ambitious, and public by design. Section 20 gives OAT a role in the investigative process, a broad mandate to conduct outreach, make policy recommendations, and obtain any department records necessary to perform its work.

Throughout 2022, OAT began the work of turning itself into an agency capable of fulfilling Section 20's broad vision. We created a staffing plan which will give us personnel with the skill and experience to monitor PPD investigations and provide constructive, meaningful input on practices and policies. We've developed a memorandum of understanding with the Police Department which will govern the sharing of information and communication between the two departments. Most importantly, we've begun the process of connecting with our community partners, and through our outreach we learn more each day about what they expect from OAT and what changes they would like to see at the Phoenix Police Department.

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<sup>1</sup> Phoenix Police Department (2023, March 14). Phoenix Police Transparency Officer-Involved Shootings Dashboard. <https://stories.opengov.com/phoenixaz/published/Vroun1EtS>

This, our first Annual Report, serves a slightly different purpose, than reports to come. For more than half of 2022, OAT had one employee and, at the end of the year, OAT had four. As a result, this report could not simply recount data from the year preceding publication. Instead, it seeks to set forth the process of our formation and the work, as we see it, going forward.

Prior to the creation of the Office of Accountability and Transparency, the people of Phoenix had already made a substantial investment in civilian oversight and police reform. OAT staff are proud to now share in that investment. We understand, as our neighbors do, that this investment will help clear the path to peace, health and equal justice within our community.

Roger Smith  
Director  
Office of Accountability and Transparency

## **STATUTORY AUTHORITY**

On May 19, 2021, the Phoenix City Council voted to approve the City Ordinance creating the Office of Accountability and Transparency, contained in Section 20 of the Phoenix City Code (hereinafter "Section 20").

### Core Duties

Section 20-1(C), which explains OAT's key responsibilities, states as follows:

#### C. The OAT shall:

- take community complaints or commendations,
- establish procedures for receiving anonymous complaints,
- conduct outreach with the community,
- support services to impacted community members,
- monitor Department investigations or conduct investigations\*;
- make recommendations to the Police Chief regarding administrative action, including possible discipline for the Department;
- make recommendations regarding policy issues;
- assist with mediation to resolve disputes;
- administer a youth outreach program;
- and address other issues of concern to the community.

The scope of all OAT actions must relate to the Department, as outlined in Section 20.

### Additional Section 20 Provisions

#### *OAT staff must implement Section 20 Honestly, Independently and Impartially*

- The Director and all OAT staff shall be committed to implementing Section 20 in an honest, independent and impartial fashion (Sec. 20-5A).

#### *OAT staff and the Board to Treat Information as Confidential Except Where Needed to Carry Out Their Duties*

- (Sec. 20-9A) The OAT, its staff, the Board, and all consultants and experts hired by the OAT shall treat all documents and information regarding

specific investigations or officers as confidential except to the extent needed to carry out their duties.

*Department to Cooperate with OAT in Monitoring*

(Sec. 20-10A) The Department shall cooperate with OAT in monitoring internal investigations, including being present to monitor interviews of witnesses and persons under investigation.

*Department/City to Provide OAT Complete Access to Requested Information*

(Sec. 20-12A) The Department and all City employees shall fully cooperate with the OAT by providing the OAT, within a reasonable amount of time, complete access to records, information, documents, files, reports, evidence, databases, and all other items, whether in paper, electronic, or other form, that the OAT requests in order to perform its duties set forth in the provisions of this chapter, but not including documents subject to a claim of privilege or confidential under applicable law.

*Department to provide OAT Opportunity to Provide Recommendations*

-Sec. 20-12D The Department shall provide OAT with reasonable notice and an opportunity to make recommendations before implementing an existing or adopting a new substantive policy or practice concerning matters within OAT's authority. (Sec 20-12D)

The provisions listed here do not describe all the statutory authority and responsibility given to OAT, the Board and the Department under Section 20 of the PCC. However, these provisions, when implemented, shall produce visible change in the PPD investigative and disciplinary process.

HB 2721

In July 2022, the Arizona State Legislature passed HB 2721, a law which provided that, in order for agencies within Arizona to conduct investigations of Arizona police officers, 2/3 of their staff must be current police officers in the police department to be investigated.

As a result of this law, the City of Phoenix has opted to forego investigations in order to preserve OAT's ability to hire civilians according to its staffing needs and wishes.

## **OAT HISTORY/TIMELINE**

Prior to the adoption of Section 20 in May 2021, members of the Phoenix community had sought and fought for civilian oversight of police for many years. Recently, those efforts produced a series of meetings between Phoenix City Officials and members of the community from 2016 to 2019. Residents voiced concerns about use of force by members of the PPD, biased policing against Hispanics, Blacks, and Native Americans, and a lack of information about the internal investigative and disciplinary processes.

These discussions ultimately led to a formal study undertaken by the City to obtain information about civilian oversight practices in other cities such as Denver and Dallas to determine which existing oversight models would best serve Phoenix.

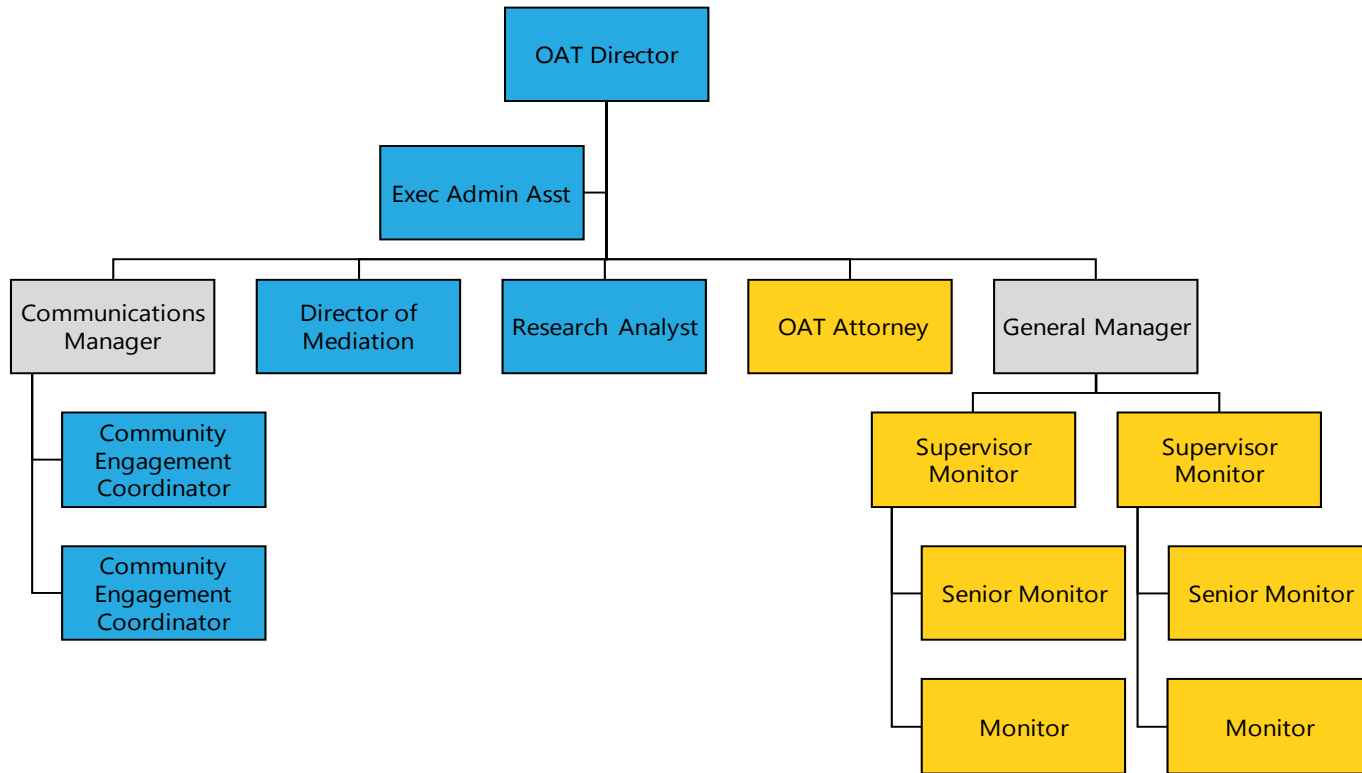
- 2016-2019 Community meetings with city officials
- September 2019-Formal study by Council begins
- Council votes on OAT
  - Feb 2020 (5-4 to create)
  - June 2020 (7-2 for funding)
  - November 2020 (4-5 against funding)
  - **May 2021 (5-4 passage of OAT Ordinance 6851 (Section 20) and funding)**
- August/September 2021 – Community Discussions with City Officials re: staffing and duties of OAT
- September 30 – October 1, 2021 - Community Forum and Finalist Interviews for selection of OAT Director
- December 6, 2021 - OAT Director begins work
- April 2022: First OAT positions posted
- May 2022: Construction of OAT office begins

- July 2022: Executive Administrative Assistant hired; Passage of HB 2721 by AZ State Legislature; OAT discussions with PPD re: MOU begin
- August 29, 2022: Research Analyst and Community Engagement Coordinator hired
- November 2022: Office Construction completed
- December 2022 -Council approves reclassification of OAT positions to include "OAT" in the titles



# OAT ORGANIZATIONAL CHART

Blue	Hired
Yellow	Recruitment in Progress
Gray	Not Yet Posted



## **COMPLAINT PROCESS**

*(See diagram, page 9)*

### **1. OAT learns of police incident:**

The official beginning of the complaint process is the occurrence of an incident involving a Phoenix police officer and a member of the Phoenix community. While OAT usually learns of some critical incidents, such as officer-involved shootings, without a complaint, OAT is dependent upon the community to report certain significant incidents that will not automatically come to its attention.

Members of the public may report police incidents to OAT in the following ways:

- Telephone, at 602-534-8263 or 602-534-8107;
- Walk-in, at 350 W. Jefferson St.
- Email, at OAT@phoenix.gov
- Online
- Via 311
- Media Reports

### **2. Incident involves Phoenix Police Department sworn personnel**

The first question OAT must answer upon receiving a complaint or commendation about an incident is whether that incident involves a member of the PPD. If it doesn't, OAT lacks jurisdiction and can take no action beyond referring the individual to the appropriate agency, where possible.

If the incident involves police personnel, then:

### **3. Incident meets criteria under Section 20-6 of the PCC for OAT mandatory jurisdiction**

After determining whether any officers involved in the incident are members of the Phoenix Police Department, next OAT must determine whether the incident falls under OAT's mandatory jurisdiction. Specifically, was the incident a(n):

- Officer-involved shooting?

- Death in PPD custody?
- Serious physical injury in custody?
- Was the officer arrested for a crime against a person as defined under A.R.S. Chapters 11-14?
- Was the officer charged with a misdemeanor or local law violation of which use of force is an element of the crime?

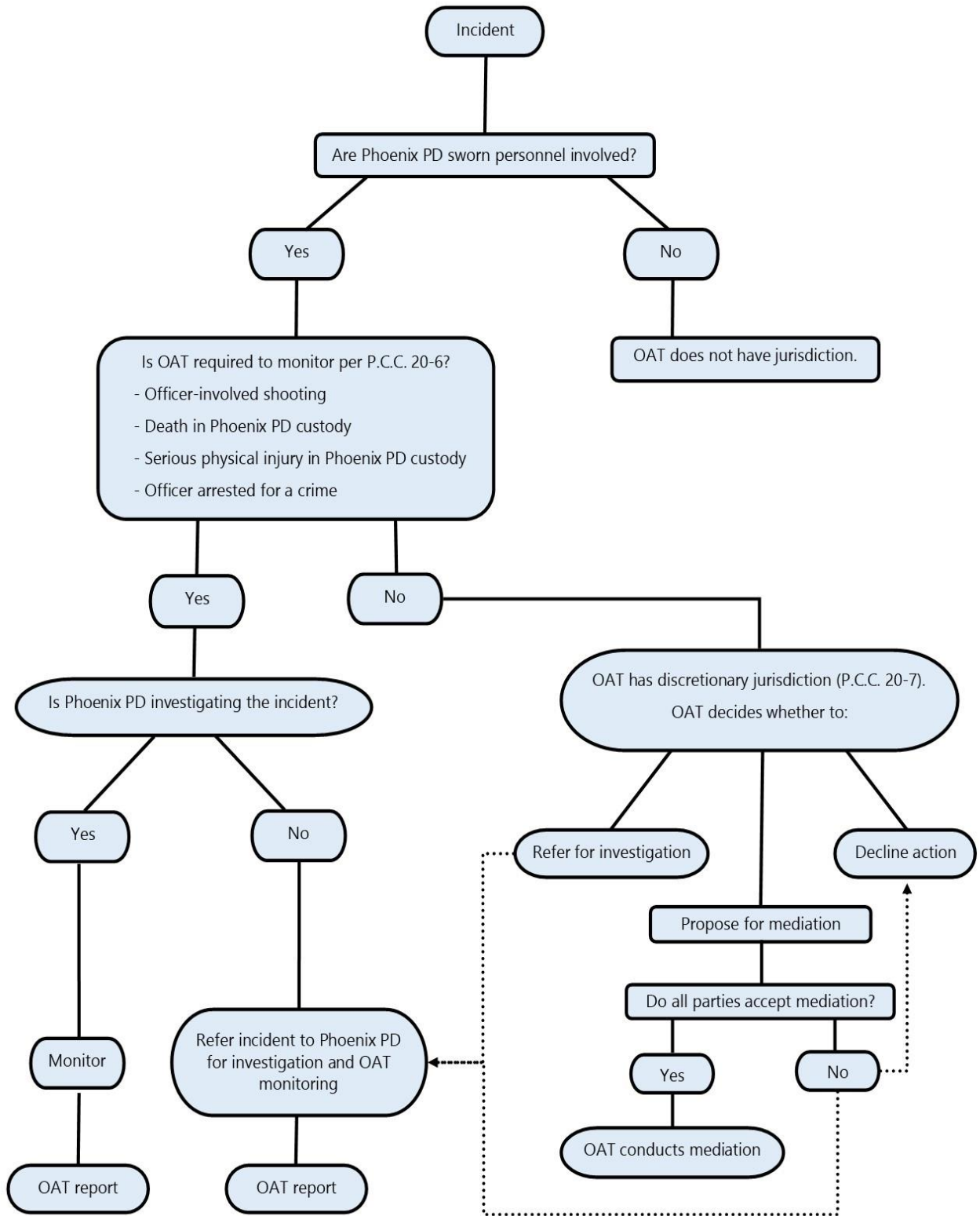
If the any of the above describe the incident, then OAT will send a **Notice of Monitoring** to the Phoenix City Manager and the Chief of PPD and monitor the course of the administrative investigation. After the conclusion of the PPD administrative investigation, OAT will submit a monitoring report, evaluating the investigation.

#### **4. Incident falls under OAT's discretionary jurisdiction**

Any police incidents involving the public but not meeting the requirements for OAT's mandatory jurisdiction fall under OAT's discretionary jurisdiction, where OAT may monitor the PPD investigation but is not required to do so under Section 20-7 of the PCC.

For all discretionary incidents, OAT makes a decision to a) refer the matter to the PPD for investigation; b) decline action or c) propose the incident for mediation. When a complaint concerning an incident contains sufficient detail for an investigation to have a reasonable likelihood of determining what occurred, OAT will refer that matter to the PPD for investigation and monitor that investigation.

On the other hand, if a complaint either doesn't allege a violation of department rules or contains insufficient detail for an investigation to have a reasonable likelihood of determining what occurred, OAT will not refer the matter to the PPD for investigation. However, in all cases, the person who brought the complaint to OAT always has the option to bring that complaint to the PPD's Professional Standards Bureau on their own and request a PPD investigation.



## **MEDIATION**

For some police incidents with limited consequences that still may result in procedural violations or minor disciplinary action, OAT will propose mediation to the complainant, the PPD Chief, and the officer(s) involved in the incident. Mediation will be used to create an opportunity for resolution of incidents where a totality of circumstances indicate that an open conversation between the officer(s) and the complainant could benefit all parties more than an investigation which may result in disciplinary action.

### Suitability

The principal consideration for OAT in determining whether to propose a case for mediation is suitability. Cases will be deemed suitable for mediation where the nature of the incident is such that an open conversation between the parties would be reasonably expected to lead to a mutually acceptable result.

Key questions to ask in determining suitability for mediation include: Was anyone injured? Was there substantial property damage? Is there a substantial likelihood of litigation stemming from this incident?

If the answer to any of these questions is yes, an incident will not be considered suitable for mediation, OAT will then refer the matter for PPD investigation or take no action in the case.

If the answer to each of these questions is no, OAT will usually propose mediation to parties directly involved in the incident. If all parties agree to mediate the case, then OAT will schedule the case for a mediation conducted either by the OAT Director of Mediation or by a trained mediator from a pool created by the OAT Director of Mediation.

## **COMMUNITY OUTREACH**

OAT's community outreach began immediately upon the arrival of the OAT Director in December 2021. The meetings and contacts, which accelerated with the arrival of our Community Engagement Coordinators, served a dual purpose for OAT – they informed us of current community policing concerns and they set the stage for the continuing conversation that will help OAT to share quickly important information about our work.

### Individual Conversations

To become familiar with the issues affecting a cross-section of Phoenix stakeholders, the OAT staff conducted more than 125 meetings with family members of those injured or killed in officer-involved shootings, interested community residents and local officials in 2022. The conversations included people from every corner of Phoenix, and people from surrounding areas who've witnessed police incidents involving PPD officers.

### Community Groups and Organizations

In addition to individual meetings with community members, OAT has conducted introductory meetings and made contact with many Phoenix area organizations, community groups and schools. Some local organizations with whom OAT has established contact or made presentations are:

Arizona State University	La Luz Del Mundo Church
Arizona MLK Celebration Committee	Maricopa Council on Black American Affairs
Black Mountain Community Alliance	Maryvale Community Center
Chicanos Por La Causa	Phoenix Metro League of Women Voters
Desert West Community Center	Phoenix Metro Pan-Hellenic Association
Eastlake Park Community Center	Pilgrim Rest Baptist Church
Estrella Mountain Community College	PODER in Action
First Institutional Baptist Church	South Mountain Community College
First New Life Baptist Church	St. Vincent de Paul Shelte

## **MONITORING**

When OAT learns of a Phoenix Police Department administrative investigation into a police incident that falls within OAT's jurisdiction under 20-6(B), a notice of monitoring is immediately provided to the City Manager and to the Chief of the Phoenix Police Department. The notice briefly identifies the incident concerned, its date and location, and informs those notified of OAT's intent to monitor the Department's investigation.

### **MANDATORY INCIDENTS**

OAT shall monitor the PPD investigation of any of the following incidents involving Phoenix police officers:

1. Officer-involved shootings;
2. Deaths in custody;
3. Serious physical injury (as defined under Arizona State Law)
4. Any incident where uniformed personnel are under investigation for, or charged with, offenses against the person, as defined under Arizona Revised Statutes Chapters 11, 12, 13 and 14
5. Any incident in which officers are under investigation for, or charged with, any misdemeanor or local law violation where use of force is an element of the offense.

(See Section 20-6(B)(1-4))

When OAT learns of a PPD investigation of any incidents as described above, OAT will promptly notify the City Manager and the Phoenix Police Chief of its intent to monitor the PPD investigation.

### **DISCRETIONARY INCIDENTS**

In addition to mandatory incidents, where OAT shall monitor the PPD investigation, OAT may, at its discretion, monitor any Department administrative investigation. (See Section 20-7) Some important considerations by which OAT will determine which discretionary investigations to monitor are the severity of the incident, the number of persons immediately affected, the level of public interest generated by the incident and the availability of OAT resources to effectively monitor the investigation.

## **MONITORING REPORTS**

Upon receiving the PPD investigative report at the conclusion of the PPD administrative investigation, OAT will complete and publish its monitoring report. The report will assess critical elements of the investigation such as:

Interviews – Did the interviews of officers/witnesses involved elicit the information needed to reach a reliable investigative conclusion? Did the questions posed give the interviewee a full and fair opportunity to provide information? Were the questions asked leading or unduly suggestive of specific answers?

Investigative Steps – Were reasonable and prompt steps taken to obtain relevant evidence during the investigation? Was necessary and available evidence ignored?

Timeliness- Was the investigation completed in a timely manner? If so, what aspects of the investigation enabled the timeliness? If not timely, how severe was any delay and what, if anything, in the investigation process, contributed to the delay?

Reliability – Were the investigative conclusions accurate? Were they based on sufficient and reliable information? Were the interpretations of the information learned through the investigation reasonable?

Disciplinary Recommendations – What was the basis for disciplinary recommendations made? Were the recommendations fair? Do the disciplinary recommendations accurately reflect the nature of the incident? Were any recommendations made consistent with current PPD rules?

Policy Considerations – Did the investigation reveal any areas where a policy or rule change is advisable? Are there any aspects of the rule that appeared to pose problems for investigators in the course of the investigation? Do any of the rules applicable to this investigation appear to contribute to a less reliable conclusion or inhibit the investigators in their efforts to obtain evidence?

### Information Incomplete/Insufficient

Where information received from the Department does not permit OAT to reach a timely conclusion as to any of the above aspects of a monitoring report. OAT will state in the report the information not received and document the efforts to obtain that information and the responses received from the PPD.



## Current Monitoring Cases

OAT began monitoring PPD administrative investigations in September 2022 when OAT sent a Notice of Monitoring to the Phoenix Police Chief and the City Manager concerning an officer-involved shooting that took place near the intersection of 39<sup>th</sup> Avenue and Cactus Road. As of December 31, 2022, OAT was monitoring a total of 12 PPD administrative investigations. See Table 1 on the following page for a complete list of cases being monitored by OAT at the time of publication.

Table 1: OAT Open Monitoring Cases September 2022 – March 2023  
*(incidents with fatalities highlighted in blue)*

Case No.	Date	Type	Location	Civilian Fatality
1	09/10/2022	Shooting	39 <sup>th</sup> Ave/Cactus Rd	Yes
2	09/22/2022	Shooting	2500 W Greenway Rd	No
3	09/24/2022	Shooting	1900 W Tuckey Ln	Yes
4	10/27/2022	Use of Force <sup>1</sup>	5900 W Buckeye Rd	No
5	11/02/2022	Shooting	37 <sup>th</sup> Dr/McDowell Rd	Yes
6	11/06/2022	Shooting	19 <sup>th</sup> Ave/Indian School Rd	No
7	11/23/2022	Street Encounter <sup>1</sup>	12038 N 32 <sup>nd</sup> St	No
8	11/29/2022	Shooting	18 <sup>th</sup> St/Southern Ave	Yes
9	12/03/2022	Shooting	29 <sup>th</sup> Ave/Thomas Rd	Yes
10	12/04/2022	Use of Force <sup>1</sup>	27 <sup>th</sup> Ave/Deer Valley Rd	No
11	12/21/2022	Shooting	43 <sup>rd</sup> Ave/Alta Visa Rd	No
12	01/03/2023	Shooting	35 <sup>th</sup> Ave/Broadway Rd	Yes
13	01/07/2023	Shooting	Lakeshore Dr/Rural Rd	Yes
14	02/11/2023	In-Custody Death	1400 N 44 <sup>th</sup> St	Yes
15	02/22/2023	Shooting	100 S 29 <sup>th</sup> Ave	Yes
16	02/22/2023	Shooting	23 <sup>rd</sup> Ave/Glendale Ave	Yes
17	02/25/2023	Shooting	17617 N 9 <sup>th</sup> St	Yes
18	03/04/2023	Shooting	35 <sup>th</sup> Ave/Southern Ave	No
19	03/05/2023	Shooting	43 <sup>rd</sup> Ave/Encanto Blvd	Yes
20	03/06/2023	Shooting	4100 W Alta Vista Rd	Yes
21	03/08/2023	Shooting	27 <sup>th</sup> Ave/McDowell Rd	No
22	03/14/2023	Shooting	6700 W Mariposa St	No

<sup>1</sup> Falls under OAT discretionary jurisdiction per Phoenix City Code Sec. 20-7.

## **PERFORMANCE MEASURES**

As OAT passes key milestones in the hiring process, it has become possible for OAT to identify, in consultation with the City's Budget and Research Department, performance measures that will accurately reflect the state of OAT's overall effort. Key performance measures for OAT are as follows:

1. Community Engagement: OAT shall conduct outreach at no less than six Phoenix community events per month.
2. Monitoring Caseload: At all times, OAT shall maintain a minimum monitoring caseload of 10 administrative investigations conducted by the Phoenix Police Department.
3. Referral Timeframe: In order to conduct adequate due diligence review and ensure that civilian communications to OAT receive timely action, OAT shall refer any complaints or commendations it recommends for investigation to the Phoenix Police Department's Professional Standards Bureau within 30 days of receipt.
4. Monitoring Reports Timeline: In 75% of monitoring cases, OAT shall complete a Monitoring Report within 90 days after receiving notice of the conclusion of the related Phoenix Police Department administrative investigation. In 100% of OAT monitoring cases, OAT shall complete a Monitoring Report within 180 days after receiving notice of the conclusion of the related Phoenix Police Department administrative investigation.

Arrival of OAT staff will enable OAT to track information and conduct follow-up as needed to achieve these performance measures. Future annual reports will contain reporting on each of these measures, for the current year and with year-by-year comparisons in subsequent years.



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