

## **Police Shootings in Phoenix – when will it end?**

Dianne Post, Attorney

Central AZ National Lawyers Guild

May 25, 2019

After the spike in shootings and killing by the Phoenix Police in 2018, the National Police Foundation did a study. They looked at the history of police shootings, compared Phoenix to other places both within and without the state, talked to officers some of whom had been involved in officer-involved-shootings (OIS), talked to a very small and select number of community members, and looked at the details of facts surrounding the shootings. From this, they made a series of recommendations. Chief Williams, who had earlier released a “community engagement plan,” then responded to the recommendations. Neither the study, the department follow-up nor the department community engagement plan talked about the vital issues such as racism, sexism, a culture of violence on the department, and how cameras can be used for investigation and training. The study and the response verify what activists have been saying for 40 years – we need a citizens review board and in spite of three studies and three plans for community involvement - nothing has changed.

### How does Phoenix compare?

The study focused on 2018 when Phoenix experienced a spike in shootings that resulted in Phoenix leading the nation in killings. But they also looked at data from 2009-2018 for comparison. Phoenix has had spikes in 2013 and 2016 and 2018. The average OIS had been 21 a year (still high) but then jumped to 44 in 2018. In 2013, the number had jumped to 31 and that is when ASU did a study and came out with 15 recommendations. With this frequency, are they spikes or business as usual?

Of the 44 incidents in 2018, 23 resulted in death of the alleged suspect. Of 665,000 dispatched calls in 2018, such incidents are rare but when compared with other cities, Phoenix ranked first in Officer Involved Shootings (OIS) killings with the next highest city being Los Angeles at 14, Las Vegas at 11, and Columbus at 10. Los Angeles of course has a much larger population and percentage of people of color yet one-third the killings. Other local cities also placed in the list of cities with the most OIS incidents in 2018 – Mesa had 7 and Tucson 6.

When comparing for size of population, Austin, Houston and San Antonio, TX were most like Phoenix but ranked 14, 15 and 16 respectively in the list. The New York Police Department had .05 fatal OIS per 100,000 population compared to Phoenix at 1.44, Mesa at 1.46, Tucson at 1.13, and Los Angeles at .35. Phoenix, Mesa and Tucson were among the 20 agencies with the most fatal OIS rates.

After comparing for population, they also compared to violent crime rates to see if that impacted the fatal OIS rate per 1,000 violent crimes. There Hawaii took the prize with 9.22 but Mesa, AZ was second with 3.46; Phoenix ranked seventh with 2.12 and Tucson eleventh with 1.50.

However, comparing Phoenix to the rest of AZ with population-adjusted statistics, Phoenix ranked seventh at 1.44. Douglas shot to the top at 6.09; Kingman was second with 3.45. Then Casa Grande dropped down to 1.92 and the rate declined to .39 in Chandler.

When compared to other Arizona cities by the amount of violent crime in the jurisdiction, Buckeye is the top gun with 3.16, then Douglas with 2.82. Then the rate drops down to .97 with Kingman and declines from there. Phoenix ranks twelfth with Tempe being the lowest.

The demographics have been consistent with no great increase of young people that resulted in more unruly behavior. The poverty rate has been stable with only a slight increase. The crime rate for violent crimes has increased.

One big factor is the failure of the mental health system. AZ is in the middle of the 50 states for access to health care. Officers have asked for more training on how to deal with mental health incidents and nearly half of citizens say that when the police are called, they make it worse. Once arrested, no one offers the accused mental health care.

#### What did the Community say?

One flaw with the study was that it did not do a broad or extensive analysis of the community perspective or environmental factors. Without that, the recommendations are just a stab in the dark. They did speak to a limited number (8) of community leaders and organizational representatives.

The problems raised by the community were the “Joe Arpaio effect,” the culture of the Phoenix Police department as indicated by their social media statements, “cover charges” of resisting arrest and assaulting an officer to discredit the victim and undercut a legitimate complaint, not enough training or too much training as an excuse to change nothing, lack of accountability, and social tensions. The community agreed we need more mental health services so the police are not called for these cases. The department needs more de-escalation and deflection training. It was disappointing that the NFP kept mentioning the “Ferguson effect” that has been completely debunked and simply used by the police as a way to deflect blame.

The community reported a deep-seated culture of violence in the Phoenix PD and that new hires just repeat old patterns. The ACLU has sued the Phoenix PD over the police attack against First Amendment protesters at the convention center as an example of their indiscriminate use of violence. Training changes focused on firearms and de-emphasized decision making. The lack of accountability extends to the county attorney and the legislature that encourages and rewards bad behavior.

#### What did officers say?

After the spike in 2018, the first response of the police department was that it was the fault of victims – they were more violent, they had more guns, and most insulting, youngsters of color needed to learn how to behave toward police i.e. show them more obedience.

The NFP said Phoenix needs civilian oversight enhancements – something the community has been requesting for 40 years. But the department cowers in the face of PLEA. An example of the power of PLEA is that when the officers were interviewed, it was at the PLEA office with not one but two union officials present. In such circumstances, no officer could criticize the system if s/he wanted to.

The officers cited some of the same concerns i.e. they see more mental health problems and notice a declining access to care, and they mentioned the opioid epidemic. However the officers claimed that people are more defiant and less likely to respect police or follow their orders and that more people hate cops. They blamed the media for stoking hatred of the police by telling the truth about incidents – which is their job.

The officers said “... historical problems the police have experienced with the public such as the civil rights movement and Rodney King beatings...” Read that statement again. The problem in both instances was the police, not the public. Officers said that now the ubiquitous cameras, live streaming, and internet, has put the information on steroids so everyone not only knows what the police do, but they know it instantly, sometimes in real time. True but it’s the behavior of the police that is the problem, not citizens making the behavior of the police public. The officers seemed more concerned that people would find out about their inappropriate behavior than that they would do it. Herein lies the problem.

The police claim they can’t establish rapport because the people don’t trust them. But people don’t trust them because of their behavior. So the police have to change their behavior. Instead, police blame citizens for becoming more violent and being willing to use guns. Yet many of the people they shoot are unarmed. The police claimed they see more guns pointed at them – they may see them but they often aren’t there. They claim people fight police to kill them rather than to escape. But the community said no, people fight to escape being killed by police. Moreover, officers actually in an OIS incident didn’t say anything about more guns or victims fighting to kill.

The interviewed officers felt they needed more police because if 6-7 officers showed up, the offender would be intimidated and won’t try anything. The officers said they wanted the pro-active units restored that went out and searched down the worst offenders thus relieving them of the duty. They complained that having more community officers was a problem, just the opposite of what the community desires.

The officers even said the record management system caused the shootings. They claim it was too slow (time to do a report increased from 3-5 minutes) and if an officer is filling out reports, s/he can’t be out there doing back up. But on the other hand, one could argue if an officer is off the streets, that person can’t be out there shooting anyone.

The officers thought the training was good or better than before and not any problem. Some wanted more training on decision-making but others said reality based training wasn't but the virtual scenarios were good. Those who had actually been in an OIS situation felt no training would have helped.

Officers also claimed that newer officers are hesitant to act because they could be criticized and that causes the situation to escalate. Most ominously the officers claimed that new officers are too soft and not in the right mind set. They need to be more confident and need proper fighting skills and a mindset development. One even complained that officers were not willing to go toe-to-toe before backup came. But aren't they supposed to wait for backup rather than provoke a confrontation. Later evidence completely rebuts most of these excuses.

Basically what they said was – we need to be more macho, more authoritarian, and scare people into obedience. Yet all the research shows that is exactly the wrong approach. The police need to be less confrontational, especially to historically vulnerable populations, and use more de-escalation skills. That is why women are more successful at de-escalation than men. Women do not come into a situation with a puffed up chest, bellowing voice, and raging testosterone. When male officers do that, the other male responds in kind and confrontation ensues.

The distance between the perceptions of the police and the community are vast as are the solutions. They want macho; we want dialogue. They want obedience; we want respect. In a democracy, the police work for the people, the people do not owe obedience to the police.

#### What did the data find?

The report then detailed the specifics they looked at from the 2018 shootings. Most incidents were in hot weather, which is no news but March, May and August were the worst three months. March coincides with spring break when more young people are on the street, May with graduation when young people are celebrating, and August with school starting. The most dangerous time of the day was 3 p.m. to 11 p.m. – when school is out and young men get off work. These factors were not examined.

The most common method of contact was a call for service. The most common of those was “crime in progress” or “had just occurred”. But a high percentage (30%) of contacts were prompted by community interactions not a call.

Aggravated assaults and homicides were the leading crimes people called about. In 2013-2017, 29% of the shootings were during pursuits but only 11% were in 2018. The police could argue this proves that the subjects are not fleeing but staying to fight or it could prove the community narrative that people believe they are literally fighting for their life and if they flee, they'll be shot while running – a scenario we have seen in the valley.

Over 40% of OIS happened within five minutes of being on scene, and half of all OIS occurred within one minute of contact with the victim. This completely destroys the police narrative that new officers are “hesitating” thus resulting in “escalation.” If the victim is shot within a minute, no hesitation occurred and there was no time for escalation.

The study noted few differences from the 2013 shooting high to the 2018 shooting high. Thus the ASU study and those 15 recommendations accomplished exactly nothing as the community said repeatedly.

The mean number of officers involved was 2.8 and the median two but 41% of the OIS in 2018 was a single officer. The NPF study encouraged officers to wait for back up unless there is a threat to life. A full two-thirds of the shootings involved just one officer firing his gun.

In both spikes (2018 and 2013), 3 of 4 officers involved were white and 19% were Hispanic. This corresponds to the demographics of the department as a whole. Only 2% of the shooters were women in 2013 and 7% in 2018 but women make up 13% of the force. So women are underrepresented in OIS incidents.

63% of the 2018 shooters had 10 or more years with the force and 28% had less than 5 years. This debunks completely the officer narrative of blaming it on the new officers.

Most officers were in their 30's and three-fourths were on patrol. The Special Assignments or tactical squad accounted for 26% of the incidents in 2018 versus only 12% in 2013-2017. No explanation was attempted for this. The tactical squad should be better trained, have better gear, and not be alone. This belies the officer narrative that what is needed is more specialty units or better training, better gear, or more officers

Injuries to officers average four a year. In 2010 and 2014, there was one fatality each. In 2018, two officers had non-fatal injuries. There was a 33% increase in officer injuries in 2017 and a 6.5% increase in 2018. An officer having to face a gun doubled from 42 to 87 from 2017 to 2018. There were 7 ambushes in 2018 versus 1 in 2016 and 2 in 2017. What accounts for that? Anger at the police, revenge, fear, protection? In some neighborhoods, the police are viewed as an invading army. That is why many of us argued against hiring more officers. None of that was investigated.

Then the report looked at whom the officers shot. In 2018, the mean age of the victim was 36 which was slightly older than before with fewer in their 20s. 36% were white, 36% were Hispanics (down from 48% in 2009-2017), and 21% were Black (up from 11% in 2009-2017). This is not a typo. Black shootings were up from 11% to 21%. Yet Blacks make up 6% of the population. No discussion followed. No explanation was given. Racism was never mentioned.

95% of the victims were male. In 2009-2017, 51% were armed but in 2018, 75% were armed. In 2018, 7% had a simulated gun versus 2% in 2009-2017. This does support the police narrative that more people are armed. But which came first – the chicken or the egg? Were they armed due to fear of the police? Or should the police fear because they are armed? The Arizona legislature is adamant about its insistence on protecting the alleged right to carry a gun and the Second Amendment. Yet when a person of color has a gun, or even a faux gun, they are punished immediately often with death.

In 2009-2017, 53% of those shot were killed; 27% were wounded; and 15% were not injured. In 2018, the statistics were nearly the same: 50% of those shot were killed, 30% were wounded, and 21% were not injured. OIS normally rises with violence in community, but there wasn't any rise in violence in 2018.

The use of intermediate control was up meaning more non-lethal types of control were used. This also refutes the officer narrative that the new officers are scared to do "hands on" of suspects. In fact, active aggression against officers was actually higher in earlier periods but more people were shot in 2018. So those who had guns may have thought they needed them because even when the suspect makes no aggressive moves toward an officer, he was more likely to be shot in 2018.

They also looked at the use of force incident complaints from the community or investigated by professional standards. In 2014, there were 108; in 2015 there were 78; in 2016 there were 72; in 2017 there were 86 and in the first half of 2018 there were 29. So the department was on track to have fewer use of force incident complaints than any year since 2014. This rebuts the officer narrative that people hate the police and are unjustly complaining about them so officers have to fear doing their jobs. On the other hand, only 1-5 sustained complaints were upheld each year or less than 7%.

The study reports that from 2014 to 2017, crime went up in Phoenix. However from 2017 to 2018, crime decreased from 791 to 719 per 100,000 population. Both OIS peaks in 2013 and 2018 were when crime had gone down. Even when looking at OIS per 100,000 violent crimes, 2018 still stood out as above average. Assaults on officers spiked in 2017 at 52% but were stable in 2018. So why the increase in shootings in 2018 – fear or revenge?

After the 2013 spike in shootings, the ASU study had asked for in-service training, de-escalation techniques, and debriefing after every OIS. New trainings were developed and others revised. These included reality based training, critical thinking, force options, and decision-making. Post OIS debriefs were increased. A new rule mandated that officers be required to intervene when they know another officer is using unreasonable force.

The NPF investigators observed the training and noticed that in the "hands on" part on how to take down a suspect, officers weren't paying attention. They also noted that the debrief was too brief and some officers bridled at any criticism, indicating he will be a problem on the street.

The officers liked the virtual training and it seemed to work, but they need more than one round of it. The investigators noted that while the training is better, the department needs to lengthen and strengthen debriefings, use more and different de-escalation tactics, track officer completion of courses, and look at pride or defensiveness as factors that interfere with training.

Nowhere was the issue of excessive charging or “cover charges” discussed nor do we know if the reported assaults on officers really happened or were fabricated later to diminish the victim’s credibility. Cameras, though not a panacea, could be used for investigation of officer’s behavior or training. The data should be analyzed for investigation of racism, escalation, and the validity of “cover charges.”

The NPF made nine recommendations. These were:

1. Document when officers point or grip guns not just shoot them.
2. Improve consistency of data collected for OIS.
3. Continue to improve training – track on line training, have more frequent training for benefit of repetition, more robust debriefings, and align scenarios with facts.
4. Increase transparency with sharing of data and information with community – transparency is significantly lacking, ten years use of force data should be updated at least quarterly, include assaults on officers, make public its availability, let community comment on policies and changes, give clear explanation of professional standards bureau.
5. Need community engagement beyond advisory groups – a no-cost community survey is available, look at community contact data on their own platforms, take a survey of officers views, use national programs for community engagement.
6. Increase presence of proactive police units – focus on prolific offenders and hot spots with evidence-based data.
7. Do a staffing survey and ensure adequate back up.
8. Revise data collection system.
9. Increase alternatives and enhancement of responses to the mentally ill.

The NPF specifically said the department should not blame shootings on the community as that only makes things worse.

#### How did the department respond?

Following the release of the study, Chief Williams released her own recommendations. The first thing she did, contrary to the advice from NPF, was blame the community. She claimed that police shootings increased because of an increase of assaults on officers and of guns. She agreed that there was a lack of transparency, though she never went as far as the NPF did to say it was “significantly lacking.” While she admitted that trust is absent, she but insisted that policy and training are not flawed. In short, according to the Phoenix PD, the problem is not the police department, it’s the public. We are to blame for being victims of police violence.

Regarding most of the rest of the recommendations, she claimed they are “looking at it” e.g. keeping track of guns gripped or pointed, consistency in data, or couldn’t do it because of funding such as new data collection system or proactive units.

The department claims to keep improving training and will look into having ASU do an evaluation. Unfortunately, she said they would look at “furtive movements” which is just another well-known meme that officers use to justify their own violence. Some things she claimed they are already working on like better debriefings and using common scenarios.

But other recommendations very important to the community to increase transparency and information were sidestepped. Regarding having ten years worth of data she said well that depends on technology and that what they release is driven by the law and professional standards. She also tied it to an ad hoc committee with council members, one of whom is gone after the election and the other who recently survived a recall but doesn’t have community trust.

The recommendation specifically said that the current advisory boards were insufficient but the chief only repeated that she would continue with them and that some policy secrets are required by law and others for safety so she won’t talk about them. The NPF recommendations specifically said the public should comment on policy. Other departments manage to work with the public on policy and don’t put their officers in danger. Laws are public and certainly can be debated and changed. We can talk about safety not only for the officer but also for the public, which is what the community has been demanding since the 1980s.

Though the NPF recommended many existing resources at the national level, the department spurned them all and used its own survey money. They claimed that asking officers was the same as asking the community about officers so will aggregate that data, (thus hiding community views), and will use PLEA and PPSLA for implementation. That is asking the fox to guard the henhouse.

The chief claimed the police have been doing community work through the Community Engagement and Outreach Task Force (2010) and Community and Police Trust Initiative (2015) after earlier incidents but the point is – it’s not working. Violence by the department spiked again in 2016 and 2018. The department does the same thing over and over while nothing changes and the community becomes more frustrated. There was of course no discussion of a civilian oversight committee the community has requested for 40 years.

The staffing study was done and given to the city council and resulted in more hires that many of the community opposed. As for mental health issues, the department said officers are trained in crisis intervention, and they have an advisory board on people with disabilities but the city and others have to take the lead i.e. not my job.



## Phoenix Police Department, Community Engagement Plan, March 2019

Prior to the final report of the NPF and its recommendations, the department put out a community engagement plan. They note that there were two recent, prior efforts to improve community and police relations. One was the establishment of the Community Engagement and Outreach Task Force (CEOTF) in 2010 following an incident between a police officer and a Councilmember. The Task Force made 34 recommendations and steps to be taken “to increase communication, access, and confidence in PPD through community engagement, collaboration, and partnerships.” PPD stated the 34 recommendations were implemented. However, repeated attempts by the community to ascertain whether that was a fact were derailed.

The Community and Police Trust Initiative was created in 2015 after a 2014 officer-involved shooting. Its purpose was to build on the work of the CEOTF by using The President’s Task Force Report on 21st Century Policing as a blueprint. They identified fifteen recommendations. This initiative seemed to involve a PowerPoint show with much sound and fury accomplishing nothing as the 2016 and 2018 shooting spikes showed.

The department did acknowledge that there are barriers between the community and the police: These barriers range from differences in skills, abilities and knowledge of the different stakeholders; the requirement to reach the hard-to-reach groups like youth, communities of color, and socially excluded groups; the necessity to overcome feelings of distrust; to embrace language and cultural diversity; and to address existing power dynamics.

In spite of acknowledging these barriers, no plan has been put into place to deal with them. Further there is no mention of what can be learned from the fact that women are better at de-escalation and have fewer shootings than their numbers on the department would suggest. The department talks about why people engage with the police but never mentioned racism or the culture of violence among the police.

## CONCLUSION

In spite of the fact that shootings of Blacks rose from 11% to 21% in 2018, no mention is made of that fact, the reasons for it or the racism underlying it. Instead, the community is blamed for doing what Arizonans are encouraged to do – carry guns.

Chief Williams is right that training is not the problem. No amount of training will fix racism when it isn’t even mentioned. She admits that lack of transparency and lack of trust is a problem. But her recommendations make no move to address either problem but fall back on the tired excuse of law and safety. She claims policy is not the problem but it is. The recommendations don’t mention racism, de-escalation, demilitarization, or the “cover charges” police make to deflect their own wrongful behavior. She didn’t even mention the use of cameras for accountability or training.

Until the culture of the department changes, until we have a true civilian review board, until racism and sexism are admitted and resolved, we have achieved nothing. The police will continue as they have and innocent citizens will die as they have. We will continue to lament and cry at funerals of children or innocent young men, and the police will walk away with no accountability and the victims will have no justice.

###