

The Gaggle on the DOJ report on Phoenix Police

Kristen Clarke [00:00:00] I am here today to announce the findings of the Justice Department's civil rights investigation into the Phoenix Police Department and the City of Phoenix. On June 13th, the US Department of Justice released a long anticipated report on its investigation into the city of Phoenix and its police department.

Mary Jo Pitzl [00:00:22] Assistant Attorney General Kristen Clarke of the Justice Department's Civil Rights Division, laid out the results of the 126-page report. After nearly three years of investigation.

Kristen Clarke [00:00:33] Based on a comprehensive review, we find that there is reasonable cause to believe that the police department and the city engage in a pattern or practice of conduct that violates the first, fourth and 14th amendments of the US Constitution. We have also identified violations of the Safe Streets Act, the Civil Rights Act of 1964, and the Americans with Disabilities Act.

Ron Hansen [00:01:06] The report casts a dark stain over the Phoenix Police Department, one that could take years to remove. Welcome to The Gaggle, a politics podcast by The Arizona Republic and azcentral.com. Each week, we examine the political news that affects our state, communities. And you. I'm Ron Hansen. I cover national politics for the Republic.

Mary Jo Pitzl [00:01:30] And I'm Mary Jo Pitzl. I cover state politics and policy. Today, we're looking at the DOJ's investigation into Phoenix and its police department and examining the political reaction from that report.

Mary Jo Pitzl [00:01:42] Joining us in studio are the two reporters who have been covering the story for the Republic. Taylor Seely, our City of Phoenix reporter, and Miguel Torres, our criminal justice reporter. Thank you both for joining us.

Miguel Torres [00:01:55] Thanks for having us.

Taylor Seely [00:01:56] Yeah, Thank you.

Mary Jo Pitzl [00:01:57] So we heard in the introduction that Assistant U.S. Attorney General Kristen Clarke laid out a long list of violations that they say the Phoenix Police Department committed. Give us a sense of what those allegations were. Dive into a little bit of the detail from that report.

Miguel Torres [00:02:13] There were six findings: excessive use of force, violating the rights of people living on the street, discrimination against people of color, essentially, unlawful restriction of protected speech, discrimination in the way they responded to people with behavioral health disabilities and one that they hadn't announced they were looking into, but a failure to change its reaction when dealing with kids. They were still very aggressive when they would approach kids during arrest or stops.

Taylor Seely [00:02:47] That was not something that the Justice Department said they would outline. But I think they expressed a serious concern enough to bring it up in the report, saying they really had a had a fear for how it would affect Arizona children in their future.

Mary Jo Pitzl [00:03:02] Give us a sense of the players involved in this in the time frame that we're talking about. Who was the chief? Who was the mayor? What years are we talking about here?

Taylor Seely [00:03:12] The investigation went as far back as 2016. I think some of the key players you need to know right now, currently we have Phoenix Mayor Kate Giago. We have our city manager, Geoff Barton, and we have an interim police chief, Michael Sullivan. But I would probably say the bulk of the investigation deals with prior leaders. So you had former Mayor Greg Stanton, former city manager at Zurcher, former Phoenix Police Chief Jeri Williams.

Miguel Torres [00:03:39] The report says that they looked at documents from 2016 to 2022, but they also outlined some cases that go past that. And they even I mean, they were conducting interviews up until 2024, and they outlined some cases from last year. So even though, you know, the bulk of their investigative material ends in 2022, I would say they pretty much touched. Up until last year.

Mary Jo Pitzl [00:04:06] Well, let's talk about the reaction to this report and its political implications. First of all, what is city leadership saying? By the time people hear this, it will have been a week. Have we had any movement on what the city is saying?

Taylor Seely [00:04:20] As of recording this? The city's response has been really muted. City Manager Geoff Barton and the police chief, Michael Sullivan, took interviews today and I will give them credit for that. They gave, I think, a substantial amount of time to numerous media outlets to answer questions. But when you asked them about their reaction to the substance of the findings, they did not have much to say. They kept reiterating they wanted to thoroughly review the report. One of the things they have said they want to do is compare the recommendations the Justice Department has laid out to their road to reform, which was, you know, 50 something page document about all the improvements their police. Department has worked on. They released that in January. I think their idea in their head is, well, if the Justice Department is recommending changes that we have already done, you know, what do we need to do from here? Right. We've already made a lot of fixes. But the city mayor has likewise said she wants to review it all. You have really only had two council members, council members and O'Brien and Jim Waring coming out very publicly, again, not weighing in heavily on the substance of the findings, saying they want to read it, but kind of warning everyone, we really don't like federal oversight. We really don't want these consent decrees that are going to be costly and challenging.

Mary Jo Pitzl [00:05:39] That and any smoke signals from the other council members other than O'Brien and wearing.

Taylor Seely [00:05:45] Councilmember Kesha Hodge Washington put out a pretty lengthy statement the day of the release. One of the things that I noted was her empathy towards people who might be hurting from the report, saying, we really need to take our time and think about all of this. And I will say that while the other council members are silent, I think they are silent because they want to. You know, they have said publicly that they want to take this very seriously. So I don't know exactly what to make of it, except that, you know, we really can't jump to any conclusion on what they're feeling or where they will go.

Ron Hansen [00:06:21] We have seen these kinds of investigations in other cities across the country. Miguel, give us a sense of how this conclusion to this juncture, anyway, fits in with what we have seen elsewhere nationally. Talk about the cities that have been most recently involved in these matters and the findings in Phoenix compared to what we've seen in other locations.

Miguel Torres [00:06:45] Most of the things that they found like excessive force, discrimination, unlawful restriction, protected speech. These are the kinds of things that you'd find in most of the other places that they looked at. Baltimore and Louisville also had issues with that. But also the report goes back to what causes those issues, which is training and accountability, which there are issues with how the police department collects data, how the police department, stays up to date with training, how the police department prioritizes internal investigations. Right. All of these, again, all of these are issues that you'd find in most of the places that the DOJ has investigated. I think some of the differences and some of the things that we know for sure that were different here were the violation of rights of people who were living on the street. That was something that the DOJ said they hadn't found anywhere else before. They found that Phoenix police were throwing away property of houses, people, that they were over arresting and siding with trespassing cases. So that was an element that was really harped on in the report as being something that was really unique here.

Ron Hansen [00:08:00] And apart from what was unique. Taylor, did they give any sense as to how egregious Phoenix was in the galaxy of other departments they've investigated?

Taylor Seely [00:08:10] This was a question that was posed to Kristen Clarke during the press conference, and I think it's hard for the Justice Department to downplay the severity of any of their investigations. That's not something they're going to want to do. But she did stress how severe Phoenix was. And she stressed, as Miguel was saying, the historic nature of Phoenix violating the constitutional rights of homeless people. So, again, she didn't exactly say Phoenix was the worst. But I think there are context clues that were pretty high up there.

Ron Hansen [00:08:41] Well, that leads to what about the folks that this is aimed at, very specifically, what are we hearing from the police rank and file from police union leadership?

Miguel Torres [00:08:51] Essentially, the police union is very much against the city going forward with any kind of consent decree or agreement with the DOJ. They feel that there were elements in the report that were false. I think the police union president said that some of the claims that the DOJ made, like if some officers don't use less lethal force weapons like pepper balls or tasers, if they don't use them enough, though, those, weapons will get taken away from them. He said, you know, I've never come across that. Or I think more severe findings was that Phoenix police are trained that escalation is de-escalation, essentially, that being more violent will somehow de-escalate the situation. They quote, one of their trainers is saying that if you're escalating a situation fast enough, you can resolve a situation before it becomes worse. And saying at one point, I believe that nice talking will get somebody hurt. You know, he said that that kind of training is not something that he was familiar with, I think is trying to make the case that a lot of these findings really don't have a leg to stand on. And I think moving forward, they really don't want the city to come to any kind of agreement with the DOJ, other than maybe a technical assistance letter.

Ron Hansen [00:10:12] So that seems to set the table, Taylor, for the city's response and, the the posture that we find ourselves now and moving forward, it's really stood out to me that the city from day one didn't already have a consent agreement in place. The posture of the city at the moment seems to be fairly antagonistic. What is the way forward and how does this usually resolve itself in other locations?

Taylor Seely [00:10:40] Yeah, in other locations, what you see is the Justice Department gives the cities an oral briefing a few days before they're set to release their findings. They give a high-level overview and say, hey, this is basically what we're going to accuse you of. Do you want to negotiate with us in good faith toward a consent decree? If you do sign this document, it's called an agreement in principle. The benefit to you is that we'll give you an advanced preview. We're not going to print out a copy, but you can go to this room, you can read it and kind of get a sense of what all will be in it, how to respond, and then we don't have to go to litigation. We're just going to work that consent decree. The major benefit is that both parties, the city and the Justice Department, get to negotiate on what goes in it, what they will be legally bound to comply with. Phoenix did not want to do that, because they didn't want to commit to signing a consent decree without having first found the findings. I think that tells us a little bit about how skeptical they were of how accurate the findings would be. That was the number one thing they stressed was, well, what if it's not accurate? We want an advanced preview because we want to see if it's accurate. So because they didn't sign that agreement in principle, they are basically on the same page that we the public are. They just got this report. They're reading through it. They could still sign a consent decree. They could. Absolutely. They think the Justice Department would like that. But if they dispute the findings, if they don't want to, because they have concerns over federal oversight and federal kind of government taking too much power from the police department or the costs associated with the consent decree, and they choose to litigate. You know, then they're going to end up in a lawsuit. And if they lose that lawsuit, they will be slapped with a court order. Still going to be costly like a consent decree. But now they didn't get to say anything of what they're going to be legally bound to.

Ron Hansen [00:12:32] So if they end up in court, Miguel, what are their chances? Do many departments to many municipalities find their way out of this without difficulty?

Miguel Torres [00:12:42] No. There's this really short answer to that. You know, there's I think if you talk to people who want Phoenix to go and fight this in court, they'll point to this story of Alamance County, which is a really, like, narrow story, but, and Alamance County is in North Carolina. I think the overall conclusion of that is that this county, though they did win, they ended up settling with the DOJ and had an agreement anyway. So even if you do put up a fight, really, chances are you're not you're not going to win and you're going to end up with a monitor and you're going to end up with a monitor that is answering to a judge who set up what the compliance is. And the city had no real say as to what that compliance will look like. A lot of the times, that's usually what cities are trying to avoid. Is this monitor ship attached with a court order compliance. The complaint is that when you're in that situation, a judge can and at times might push the goalpost and you might, you know, never reach 100% compliance. I think that's a complaint of what's happening with the, Maricopa Sheriff's Department.

Taylor Seely [00:13:59] I would just say that something I think all of our Phoenix residents, Arizona residents, people who care about this need to recognize is that even if you fight the Justice Department in court, you have to understand the Justice Department has a duty to ensure the constitutional rights of individuals are protected. They will do whatever they need to do to feel like they've done their job. So if they lose in court, history has

shown us that they will appeal. So this is not just a let's fight them and win. This is let's fight them and win and then fight them and try and try and try. It might be worth it 100%. It just it's something that everyone needs to be aware of.

Ron Hansen [00:14:41] Well, while we wait for the city to decide how it's going to respond to this. Do you see anything that might be different in how police will do their jobs going forward? You know, what can citizens of Phoenix expect to see any changes? Do we have any sense of that at this early stage?

Miguel Torres [00:14:59] I think pointing to the reforms that the city's actually been touting for the last year is not unrealistic. Michael Sullivan initiated a few policy changes. I think the biggest one was the use of force policy change. And the reason I think looking at that is important or more realistic is because that document actually falls in line with a lot of the recommendations that the DOJ put into their report. And the reason that it falls in line is because when the department was building this policy, they actually had a lot of advice from the DOJ. And the only issue with that is that policy was introduced in 2023, and it's still not at that stage where it can be implemented because not everyone has been trained on it. So that's like ongoing. That's like currently active. The difference is there is that use of force will be broken up into levels, and each level will be investigated by its own sort of agency. And so we're talking about like data collection now that didn't exist. We're talking about accountability at every level that sort of didn't exist and was sort of going by the wayside. A lot of issues that the DOJ highlights in its report have to do with this culture of supervisors informally looking at use of force issues. So they'll get a complaint, or they'll see that an officer had some kind of issue out on the street, and they will, according to the DOJ, they will talk to the officer but never file anything. Nothing gets documented. And that process, that culture is kind of at the center of the DOJ report that there's this culture of sort of shying away from formalizing a lot of the problems that exist within the department.

Ron Hansen [00:16:49] So are you suggesting that the use of force plan that the PD has would move away from that and take more formal action?

Miguel Torres [00:16:58] I think it at least creates a structure where now there's a formalized like structure in place for it to happen, whereas before there was no steps to be taken for any of these sort of smaller issues, any of these smaller incidents. So if it doesn't get documented now, there are people in the chain of command that can get dinged for.

Ron Hansen [00:17:19] Okay, so that's the city and the Justice Department. What about the public, especially the community activists who were most alarmed by the conduct of the Phoenix Police Department? How have they received this report? What is their level of engagement moving forward?

Taylor Seely [00:17:36] There have been so many community activists through the year that I've tried to shine a light on the problems outlined in the Justice Department's investigation, and what they have said recently is that they are not surprised. They are heartbroken. They are disgusted. But this is something they knew. They're glad it's documented. They hope the city takes it seriously. But they knew this all along. Aside from those specific comments posted to social media or given to reporters, one thing I have paid attention to is the lack of protests or public demonstrations. It's surprising to me being in downtown, our newsrooms here. I remember four years ago seeing hundreds of people take to the streets and call for more accountability. I thought maybe that would happen when these findings were released, and I really don't know what that's a reflection of.

Maybe they're tired. Maybe they have lost hope, I don't know, but they're not surprised. They're disgusted.

Ron Hansen [00:18:36] So last question when are we going to hear from the city? Are they under any kind of deadline or timeframe to formally respond to the DOJ?

Taylor Seely [00:18:45] I am not aware of a formal deadline they must respond by, but the mayor has said that they will enter into their confidential executive session with attorneys on June 25th. So that's about a week from when our listeners will hear this. And at that point, maybe we'll hear from them in public. But there's really no promise. I have been asking council members as often as I can. Do you have any comment? But they just keep reiterating that they want to read thoroughly.

Ron Hansen [00:19:15] Well, we'll be watching for those comments whenever they come out. And what that might mean for citizens of Phoenix and yeah, for our city government.

Ron Hansen [00:19:24] Thank you both for coming in. If folks want to follow your work on social media, where can they find you?

Taylor Seely [00:19:31] I'm on X @taylorseely95

Miguel Torres [00:19:35] I'm sometimes on X @migueltorres

Mary Jo Pitzl [00:19:42] Well, that is it for this week. Gaggle listeners, do you have questions about today's episode or topics you'd like us to cover on the show? If so, send us a message at (602) 444-0804 or send a voice memo to the gaggle at Arizona Republic.com. That's all. One word, all spelled out.

Ron Hansen [00:20:04] This episode was edited and produced by Kaely Monahan with help from Amanda Luberto. Episode oversight is by Kara Edgerson and our news direction is from Kathy Tulumello. Our theme song and music comes from Universal Production Music.

Mary Jo Pitzl [00:20:20] Never miss an episode of The Gaggle by subscribing to us wherever you listen. If you learned something new today, be sure to share this episode with your friends. You can also leave us a review and rate us five stars. You can follow the gaggle on social media @azcentral. And you can follow me at Mary J. Pitzl that's p i t z l.

Ron Hansen [00:20:44] And I'm at Ronald J. Hansen. That's h a n s e n. The gaggle is an Arizona Republic and azcentral.com production. Thanks for listening. We'll see you next week.