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**Office of the Chief of Police**

8401 E. Indian School Rd.  
Scottsdale, AZ 85251

PHONE 480-312-1900  
FAX 480-312-1969  
WEB [www.scottsdalepd.com](http://www.scottsdalepd.com)

July 19, 2022

Chief Jeff Glover  
Tempe Police Department  
120 E. 5<sup>th</sup> Street  
Tempe, AZ 85281

Dear Chief Glover:

Please find attached the Scottsdale Police Department Administrative Review regarding Tempe Police Department General Offense Report #22-57453. Please do not hesitate to contact me with any questions and/or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Walther', with a long horizontal stroke extending to the right.

Jeff Walther  
Chief of Police

TEMPE POLICE DEPARTMENT GENERAL OFFENSE REPORT 22-57453

Investigator: Sgt. Peter Michael #1361

**BACKGROUND**

On June 1, 2022, The Tempe Police Department (PD) asked the Scottsdale Police Department (SPD) to conduct an administrative review of a call for service that occurred on May 28, 2022, in the City of Tempe. The call for service took place at the Tempe Center For The Arts, located at 700 West Rio Salado Parkway. The incident details were captured in Tempe Police Department (TPD) General Offense (GO) 22-57453. Tempe PD provided the following materials for review:

- Computer Automated Dispatch (CAD) comments
- Body-worn camera (BWC) footage
- Radio traffic
- Tempe PD policy
- Tempe PD GO 22-57453

The purpose of this administrative review, when taking into account area agency policy and practice, is to determine whether officers on the call should have entered the water to perform a rescue. The scope of this review was strictly limited and no officers and witnesses of the actual event were interviewed.

*(For this administrative review, italics denote direct quotes from documents, interviews, and audio recordings and are presented without correction)*

**CALL FOR SERVICE INFORMATION**

On May 28, 2022, at approximately 0457 hours, Michael Chavez (callsign – H605) aired, over the police radio, that he observed what appeared to be a family fight between a male and female. Michael is a non-sworn security guard contracted by the City of Tempe. Michael works for the Downtown Tempe Authority (DTA). Michael requested that patrol officers respond to his location at the Tempe Center for the Arts to investigate the fight. Tempe dispatch acknowledged Michael's request and dispatched Officer Bryan Berman #20184 (callsign – 5P11) and Officer Kelly Bennett #22036 (callsign – 5N11). Officer Jeffrey Gebbie #17811 (callsign – 5P12) added himself to the call and responded.

At approximately 5:00 am, Officer Berman arrived and contacted the male subject associated with the family fight, Sean Bickings. At approximately 5:02 am, Officer Gebbie and Officer Bennett arrived. Officer Berman directed them to speak with the female associated with the family fight, Susan Smith. An initial investigation began as to whether or not a crime had occurred involving Sean and Susan.

### **CONTACT WITH SEAN BICKINGS**

Officer Berman contacted Sean and asked to speak with him. Officer Berman and Sean engaged in a conversation about Sean's requirement to identify himself. Sean was hesitant about providing his name and seemed intent on reading a statement to Officer Berman regarding his rights. Officer Berman explained that he would allow Sean to read the statement entirely but would need Sean to identify himself first. Officer Berman explained that it was a misdemeanor crime if Sean failed to identify himself. Sean provided his name, date of birth, and the last four digits of his Social Security number. Officer Berman allowed Sean to continue to read.

At approximately 5:07 am, Officer Gebbie and Officer Bennett joined Officer Berman with Sean. Officer Bennett told Officer Berman what Susan had stated. Officer Berman conducted a records query on Sean, including a warrant query. Officer Berman was advised that Sean had three unconfirmed felony warrants from the Maricopa County Sheriff's Office (MCSO). While Officer Berman was being informed about the warrants, Sean stood up and began leaning over the guardrail. The guardrail is a barrier between the lake and pedestrians walking adjacent to the lake.

Shortly afterward, Sean jumped over the guardrail, telling officers he was sorry. It should be noted that officers had made no apprehension efforts in the lead-up to Sean jumping over the fence. Officer Berman asked what he was doing, as did Officer Gebbie. Both officers told Sean he wasn't allowed to swim in the lake. At approximately 5:12 am, Sean entered the lake and began swimming away from the officers. Sean initially swam north from the officers and under the pedestrian bridge from east to west. At approximately 5:13 am, Officer Berman told Officer Gebbie and Officer Bennett to watch Sean while he went to retrieve the Tempe Police Department boat. The Tempe Fire Department was dispatched to respond at 5:16 am.

Officer Bennett walked onto the pedestrian bridge and observed Sean as she looked to the west. Officer Gebbie joined Officer Bennett on the pedestrian bridge. Officer Gebbie instructed Sean to swim to the support for the pedestrian bridge. Sean stated he couldn't do that. While this occurred, Sean was treading water in place and began to panic. Sean said he couldn't swim and he was going to drown. Officer Bennett instructed Sean to swim to the support for the pedestrian bridge. Sean stated he couldn't.

At approximately 5:15 am, Susan ran onto the pedestrian bridge and began to try and climb over the barrier to enter the lake. Officer Bennett physically prevented Susan from entering the lake. Officer Bennett and Officer Gebbie subsequently detained Susan by placing her in handcuffs. Both officers asked Susan to try to speak with Sean to get him to swim to safety. Susan tried but was unsuccessful.

At approximately 5:16 am, Sean went under the water and did not reemerge. At approximately 11:22 am, Tempe Fire Department located Sean's body and pronounced him dead.

### **RESEARCH OF BEST PRACTICES AND POLICY RELATED TO WATER RESCUE**

To best address the question, several subject matter experts were contacted to understand their respective policies to determine whether or not Tempe PD should have a policy directing officers to enter the water based on their training and experience in the field. I provided the factual background of this case to these experts and based on their training and experience in the area, I asked each person if they would have entered Tempe Town Lake to rescue a person drowning, as in the situation presented.

#### **Major Danny Rodriguez, Watercraft Law Enforcement Programs Coordinator, and Arizona State Boating Law Administrator Arizona Game and Fish**

Major Rodriguez is the liaison for training between Arizona Game and Fish and the National Association of State Boating Law Administrators (NASBLA). Major Rodriguez provides training to law enforcement regarding waterborne safety, survival, and rescue. Major Gonzalez completed the 56-hour Arizona Peace Officer Standards and Training (AZPOST) for the Watercraft Enforcement Patrol Officer Course.

Regarding the incident at Tempe Town Lake, Major Rodriguez explained the following:

Major Rodriguez stated he would not have entered the water. If officers were to jump in, they would have to consider things such as the weight of their gear, if their equipment is removed, where is it going to be stowed, their swimming ability, physical conditioning, timeliness of someone assisting them, weather, water temperature, distance from the shore, suspect's state, weapons involved, and contingency plans if they were struggling.

Major Rodriguez acknowledges that training for water survival is not provided to officers, which further supports why it is ill-advised for officers to enter a body of water for rescue.

#### **Sergeant Christopher Clark**

**Maricopa County Sheriff's Office (MCSO)  
Lake Patrol Division**

Sergeant Clark is the Dive Team Supervisor for MCSO's Underwater Search and Recovery Dive Team, which is certified through the Professional Association of Diving Instructors (PADI). Additionally, Sergeant Clark has completed numerous swim training and qualifications with the United States Marine Corps (USMC). Lastly, Sergeant Clark is a certified Law Enforcement Boat Operator.

Regarding the incident at Tempe Town Lake, Sergeant Clark explained the following:

Sergeant Clark stated he would not have entered the water. Even if he could safely remove his gun belt, boots, and outer carrier, he still would not have entered. Sergeant Clark added that given that the Salt River system filled Tempe Town Lake, the water clarity would not be good, and water rescue would take a substantial amount of time since the swimmer would be swimming near blind.

While it is not clearly defined in MCSO operations, Sergeant Clark stated that his directive would be that deputies not enter the water. MCSO would have left one observer on the shore to show the last seen point and passed that on to boat crews and divers.

**Sergeant Edward Mooney  
Boating Unit Supervisor  
Bullhead City Police Department**

Sergeant Mooney is currently assigned as the supervisor for Bullhead City's boating unit. Regarding the incident at Tempe Town Lake, Sergeant Mooney explained the following:

Sergeant Mooney stated he would not have entered the water. He based his decision primarily on not having the appropriate training and equipment to attempt the rescue. Sergeant Mooney also pointed out that the subject's actions can often dictate whether or not an officer should enter the water, including the level of panic for a subject struggling in the water.

Sergeant Mooney stated Bullhead City Police Department does not have a written policy regarding waterborne rescue. The decision to enter the water was left to the officer's discretion.

**FINDINGS**

At the onset of this administrative review, I was tasked with determining whether officers on the call should have entered the water to perform a rescue. My findings are based on research of local area agency policy and practice.

Taking into account the totality of the circumstances based on the materials provided and after consulting with subject matter experts, I find that the officers, in this case, should not have entered the water to perform a rescue based on the specific factors listed below. It should be noted that due to the limited scope of this administrative review, it is unknown what equipment and training to perform water rescues are regularly provided to Tempe police personnel.

Furthermore, this situation presented a variety of specific factors that could have influenced the officer's decision to enter the water.

- The officer's ability to swim and their comfort performing a rescue in open water.
- Any training the officer may or may not have had to perform water rescues.
- Sean's intent for entering the water. Specifically, if he was trying to evade arrest for his warrants or attempting to forcibly resist the officers.
- If Sean were intent on being rescued, his size would have challenged any swimmer. The Tempe PD report listed Sean as 5'7" tall and weighing 185 pounds. A drowning person may drag down would be rescuers that are not properly equipped and trained.
- Water clarity would not have been ideal, which would have hindered the ability to locate Sean's body immediately after submerging under water.

In speaking with subject matter experts and reviewing the facts of the situation, it is apparent that policy would have clarified expectations for officers.

Sergeant Peter Michael #1361  
Internal Affairs