



## City of Phoenix

To: Joseph G. Yahner  
Acting Police Chief

Date: January 19, 2012

From: Blake A. McClelland, Assistant Chief  
North Patrol Division

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abc

Subject: **INTERNAL INVESTIGATION - PSB 11-0080**

**Internal Investigators:**

Commander Dave Harvey  
Lieutenant John Collins (Investigative Review)  
Sergeant Crista McCarthy (Primary Investigator)  
Sergeant Mark Doty (Interviews)

**Allegation #1:**

On June 20, 2011, Officer Frankie Contreras # 8638 used excessive force on Mr. Joshua Varvel while affecting an arrest at 3000 North 57<sup>th</sup> Avenue.

**Findings:**

Unfounded

**Allegation #2:**

On June 20, 2011, Officer Frankie Contreras # 8638 failed to report force used during the arrest of Mr. Joshua Varvel at 3000 North 57<sup>th</sup> Avenue.

**Findings:**

Unresolved

**Allegation #3:**

On June 20, 2011, Officer John Maxwell # 8683 used excessive force on Mr. Joshua Varvel, a handcuffed prisoner, at 3000 North 57<sup>th</sup> Avenue.

**Findings:**

Sustained

**Allegation #4:**

On June 20, 2011, Officer John Maxwell # 8683 failed to report force used during the arrest of Mr. Joshua Varvel at 3000 North 57<sup>th</sup> Avenue.

**Findings:**

Sustained

**Allegation #5:**

On June 20, 2011, Officer John Maxwell # 8683 exhibited unprofessional conduct when he threw a knife belonging to Mr. Joshua Varvel which was potentially evidence of a crime, while at 3000 North 57<sup>th</sup> Avenue.

**Findings:**

Sustained

**Allegation #6:**

On June 20, 2011, Officer Dustin Watts # 8734 used excessive force on Mr. Joshua Varvel while affecting an arrest at 3000 North 57<sup>th</sup> Avenue.

**Findings:**

Unfounded

**Allegation #7:**

On June 20, 2011, Officer Dustin Watts # 8734 failed to report force used during the arrest of Mr. Joshua Varvel at 3000 North 57<sup>th</sup> Avenue.

**Findings:**

Sustained

**Employee/s Involved:**

Frankie Contreras # 8638

Division: South Patrol  
Precinct: Maryvale  
Squad: 81K  
Schedule: 2000-0600 W, Th, Fr  
Date of Hire: 09/11/2006

John Maxwell # 8683

Division: South Patrol  
Precinct: Maryvale  
Squad: 81K  
Schedule: 2000-0600 W, Th, Fr  
Date of Hire: 10/09/2006

Dustin Watts # 8734

Division: South Patrol  
Precinct: Maryvale  
Squad: 81K  
Schedule: 2000-0600 W, Th, Fr  
Date of Hire: 01/01/2007

**Complainant:**

Joshua Varvel  
W/M, [REDACTED]

**Witness Employees:**

See Witness Employee section

**Civilian Witnesses:**

See Civilian Witness section

**Departmental Reports:** 2011-01054410

**Attachments:** See Attachment section

**SUMMARY OF INVESTIGATION:**

On June 19, 2011 at approximately 9 p.m., officers responded to \_\_\_\_\_ on an aggravated assault with a knife call. Upon arrival the suspect, Joshua Varvel had fled. Officer Brian Walsh # 8562 obtained the information for a departmental report and left the area. Officer Walsh communicated to his squad mates during the shift the information from that call and that Joshua Varvel had allegedly threatened another person with a knife.

At approximately 9:45 p.m. a second call was dispatched with information that Joshua Varvel had returned to \_\_\_\_\_; upon the officers' arrival he was no longer at the apartment complex.

On June 20, 2011 at approximately 4 a.m., another call was dispatched stating that Joshua Varvel was again at \_\_\_\_\_. As Officer Walsh entered the apartment complex, Joshua Varvel was leaving on his bicycle. Officer Walsh broadcast that information via radio and additional officers arrived in the area in an attempt to locate Joshua Varvel.

Officers Dustin Watts # 8734 and John Maxwell # 8683 located Joshua Varvel riding his bicycle northbound on 57<sup>th</sup> Avenue and stopped him at approximately 3000 North 57<sup>th</sup> Avenue. Officer Frankie Contreras # 8638 arrived immediately after Officers Watts and Maxwell.

Officer Watts was the first to contact Joshua and took him to the ground. Officer Watts described Joshua as being extremely sweaty and his attempts to grab onto and control his arms were unsuccessful. Officer Maxwell approached and with his right foot, kicked Joshua on his left side twice and then delivered one knee strike to his left side. Officer Maxwell believed Joshua was trying to put his arm underneath his body and it had been reported that Joshua had a knife. While Officers Watts and Maxwell were positioned towards Joshua's upper body, Officer Contreras arrived and positioned himself on Joshua's legs to assist in controlling him. Joshua Varvel was then handcuffed.

After being handcuffed, while Joshua Varvel was still prone on the ground, Officer Maxwell located a pocket knife that he believed fell or was removed from Joshua's pocket and threw it

towards a vacant house north of their location to create distance for safety reasons. Later, Officer Maxwell and Officer Contreras searched the area for the knife and Officer Maxwell stated he recovered the knife on the roof of the vacant house and placed it into Joshua's property bag. Mr. Varvel alleges that his knife was not returned to him with his property upon being released at his home.

While still prone on the ground, Mr. Varvel vomited, he alleges that he also defecated himself, due to the force used by the officers; however, none of the officers acknowledged they were aware of him defecating.

Officer Walsh arrived at the location of the arrest and placed Joshua in a patrol vehicle, he then used a hose from 3024 North 57<sup>th</sup> Avenue to spray the vomit off the driveway.

A departmental report was written by Officer Walsh listing Joshua Varvel as a suspect in an aggravated assault. The report explains that witness statements were conflicting and Joshua admitted to brandishing his knife in self defense as he fled the apartment complex. Officer Walsh's original report does not describe any force used or the circumstances of Joshua being taken into custody. None of the officers who affected the arrest authored a supplement to the report or recall telling Officer Walsh what force was used to be included in his report.

The arrest of Joshua Varvel was captured on a home video surveillance camera from 3024 North 57<sup>th</sup> Avenue, one view of the incident was provided by the homeowner, Mr. Richard Garcia, to Joshua Varvel and in turn to the Professional Standards Bureau. During the interview, Officer Maxwell reported using both kicks and a knee strike prior to Joshua being handcuffed. Although the video recording is unclear, the investigation suggests that a knee strike was delivered seconds after Joshua was handcuffed.

