City of Albuquerque
Civilian Police Oversight Agency

ALBUQUERQUE CIVILIAN POLICE OVERSIGHT

Diane McDermott
Executive Director

To: **Scott Norris, Commander IAFD**

From: **Diane McDermott, Executive Director**

Subject: **CPOA Report on Officer Involved Shooting APD Case # 24-0035405**

Incident Summary:

The incident occurred on April 30, 2024, at approximately 2328 hours. Investigators from the Investigative Support Unit (ISU) were observing a male identified as Mr. R, who had a history of vehicle theft since 2015. He was under separate investigation by several detectives. He had been under surveillance for about three weeks, during which a comprehensive background check indicated he was likely armed and a known narcotics user. Bernalillo Police Department was also involved in a stolen vehicle investigation related to Mr. R. He had additional cases with BCSO from March 2024 concerning stolen vehicles. Bernalillo Police informed an Albuquerque Police Department (APD) detective about the phone number belonging to Mr. R, and detectives with APD obtained a GPS ping warrant allowing them to track Mr. R on April 18, 2024.

Mr. R had been under surveillance since April 18, 2024. On the day of the incident, detectives attempted to apprehend him earlier at a storage facility and another residence, but were unsuccessful. He employed counter-surveillance tactics when detectives followed him and entered the casino parking lot, switching seats with a female passenger. As they exited the casino parking lot toward Rainbow Road, detectives successfully deployed a grappler device and initiated a high-risk stop. Multiple APD vehicles encircled his vehicle and announced the arrest. Two female passengers exited the vehicle and lay prone on the median of the road. Mr. R moved into the driver's seat and actively resisted, attempting to drive forward and backward to disengage or escape the grappler.

The detectives kept advising him to surrender and used less-lethal methods, such as 40mm rounds and beanbags on the vehicle's windows and side mirrors. However, they were unable to get him out of the vehicle. Multiple officers also aimed their firearms at Mr. R. He was heard saying, "you are going to have to shoot me" from inside the vehicle. Subsequently, officers observed Mr. R start shooting at them, prompting them to discharge their weapons in response. It was determined that four officers fired their rifles simultaneously, totaling 24 rounds.

Immediately after the shooting, a plan was put into place to first safely detain the females and then remove Mr. R from the vehicle for medical treatment. Officers approached the vehicle, pointed their firearms at him, and utilized empty hands to conduct a takedown and place him into custody. Officers applied a tourniquet and chest seals, and Mr. R was transported to the hospital with gunshot wounds to his cheek, elbow, and back. Mr. R was charged with aggravated assault on officers, auto theft, receiving and transferring stolen vehicles, and felony warrants.

Case Review:
Computer-Aided Dispatch Reports
APD Field Reports
CSS Photos
IAFD Reports
IAFD Investigation
Incident Photos
On-Body Recording Device Videos
APD policies regarding force
CPOA Director's attendance at the Force Review Board Briefing

Use of Force Types and Involved Officers:

- UOF1, Level 3 Officer #1 Firearm-OIS (x4)
- UOF2, Level 3 Officer #2 Firearm-OIS (x11)
- UOF3, Level 3, Officer #3 Firearm-OIS (x8)
- UOF4, Level 3, Officer #4 Firearm-OIS (x1)
- UOF5, Level 3, Officer #6 Beanbag-injuries (x8)
- UOF6, Level 3, Officer #5 40mm
- UOF7, Level 2, Officer #3 Empty hand takedown
- UOF8, Level 2, Officer #4 Empty hand takedown
- SOF1, Level 1, Officer #2 Show of force-Rifle (x2)
- SOF2, Level 1, Officer #4 Show of force-Rifle
- SOF3, Level 1, Officer #5 Show of force-Handgun

Policy Consideration and Outcome:

The applicable policies that were reviewed by the Internal Affairs Force Division for the use and show of force for all involved officers are:

2-101-4-A-1-a-i-9 Procedures A. Use of the Grappler Device 1. Only Department personnel authorized by the Investigations Bureau Deputy Chief or their designee who have successfully completed training in the proper use and deployment techniques of the grappler device shall use or deploy it and shall obtain authorization from a supervisor prior to deployment. a. The grappler device shall only be used and deployed during the following incidents: i. When the individual driving the vehicle is subject to a lawful detention or arrest for the following incidents: 9. Unlawful taking of a motor vehicle.

2-101-4-B-1-c-i Procedures B. Considerations for Deployment 1. Department personnel shall avoid deployment of the grappler device if: c. There are environmental concerns that increase the dangerousness of use, including but not limited to: or i. Heavily populated pedestrian areas.

2-101-4-B-2-(a-d) B. Considerations for Deployment 2. Department personnel shall consider the following tactical factors before deployment: a. Traffic conditions; b. Pedestrian traffic; c. That support personnel are close enough to support the stop; and d. The target vehicle is on a dry hard surface.

2-80-3-C Probable Cause to Arrest (Seize) When facts and circumstances within an officer's knowledge or, on which an officer has reasonably trustworthy information, are sufficient to warrant a reasonable person to believe that an offense has been or is being committed by the individual arrested.

2-52-5-B-1 2-52-5 Authorization to Use Force B. Pre-Use of Force 1. When feasible, consistent with SOP Use of Force: De-escalation, Department personnel shall use de-escalation techniques to gain the voluntary compliance of an individual to reduce or eliminate the need to use force.

2-52-5-B-5 2-52-5 Authorization to Use Force B. Pre-use of force 5. When feasible, prior to making initial contact with an individual in response to a high-threat situation, Department personnel shall take time to plan how they will respond to the situation, plan de-escalation techniques, and create a force array.

2-54-4-B-1-d. 2-54-4 Intermediate Weapon System General Requirements B. Intermediate Weapon System Use Guidelines 1. Sworn personnel shall: d. When feasible, give a verbal announcement in order to notify on-scene sworn personnel that an intermediate weapon system is about to be used, e.g., "Taser, Taser, Taser!", "Beanbag, beanbag, beanbag!";

2-53-3-W-3 Level 3 Use of Force: Any use of force that results in, or could reasonably result in, serious physical injury, hospitalization, or death, regardless of whether the use of force was unintentional or unavoidable.

2-53-3-W-1 Level 1 Use of Force: Any use of force that is likely to cause only temporary pain, disorientation, and/or discomfort during its application as a means of gaining compliance; or any show of force.

2-52-5.C Authorization to Use Force 1. When using force, Department personnel shall stop or reduce the level of force as the individual reduces their resistance.

2-52-6.B Deadly Force 1. Department personnel shall not use deadly force: c. Against an individual unless the officer has an objectively reasonable belief that an individual poses a threat of death or serious physical injury to Department personnel or another person;

2-52-6-C-2 2-52-6 Prohibited Uses of Force C. Deadly Force and Moving Motor Vehicles 2. Department personnel shall not discharge a firearm at or from a moving vehicle, unless an occupant of the vehicle the officer is engaging is using deadly force, other than the vehicle itself, against the officer, or another person.

2-53-W-3-a Level 3 Use of Force: Any use of force that results in, or could reasonably result in, serious physical injury, hospitalization, or death, regardless of whether the use of force was unintentional or unavoidable. Level 3 use of force includes: a. Use of deadly force;

2-53-3.X Levels of Resistance An individual's resistance that poses an imminent threat of harm to the officer or other people, such as when an individual attempts to attack or attacks an officer; exhibits combative behavior (e.g., lunging towards the officer, striking the officer with hands, fists, feet, or any instrument that may be perceived as a weapon, such as a knife or stick) 1. Active Resistance: An Individual who is brandishing or in possession of a weapon while also not following lawful commands is considered actively resisting.

2-53-3-D-1-e D. Deadly Force 1. Any use of force that is reasonably likely to cause death or serious physical injury and includes, but is not limited to: e. Intentionally targeting an individual's head, neck, throat, chest, or groin with a beanbag shotgun;

2-54-9 40-millimeter Impact Launcher A. 40-millimeter Impact Launcher Use Guidelines. 3. An officer may deploy their 40-millimeter impact launcher when such force is reasonable and necessary to control an actively resistant individual or to protect the officer or another person from an imminent threat.

2-54-4-B-4 Intermediate Weapon System General Requirements B. Intermediate Weapon System Use Guidelines. 4. Sworn personnel shall not point a firearm at an individual unless the officer reasonably believes the individual presents a threat to the officer, other sworn personnel, or community members.

2-56-4-B-2 B. Procedures for Non-Reportable Uses of Force 2. Department personnel shall document in a Uniform Incident Report the circumstances of an inadvertent covering of an individual with a weapon that is not a reportable Level 1 use of force.

2-53-3-X-2: Passive Resistance 2. Passive Resistance: Non-compliance with officer commands that is nonviolent and does not pose a threat to the officer or the community. Bracing, tensing, linking arms, or verbally signaling an intention to avoid or prevent being taken into custody constitute passive resistance.

2-53-3-W-2-d Level 2 Use of Force: Any use of force that causes injury, that could reasonably be expected to cause injury, or that results in a complaint of injury greater than temporary pain, regardless of whether the use of force was unintentional or unavoidable. A Level 2 use of force includes: d. Use of empty-hand techniques that result in injury or complaint of injury (e.g., strikes, kicks, takedowns or leg sweeps);

Officers had probable cause to charge the subject with receiving and transferring a motor vehicle. Additionally, the subject had a felony warrant and a history of being armed. The subject, post-grappler deployment attempted to flee from the officers in a stolen vehicle and fired rounds towards the officers. The officers utilized deadly force in response to the imminent threat of death posed by the subject. Further de-escalation efforts were not feasible.

IAFD found the force applications within APD policy.

Findings:

The CPOA and CPOAB agreed with APD's determination that the use of force was **within policy**.

Additional Considerations:

Internal Affairs Force Division identified potential tactical, training and equipment deficiencies.

Tactics deficiency: One concerned multiple officers giving commands simultaneously to the subject, the other concerned an officer positioning himself in an unfavorable position while transitioning from

his 40mm to his rifle. A Sergeant used a 40mm rather than transitioning to a handgun immediately when a deadly threat was posed by the subject.

Training deficiency: An Officer did not provide a 40 40 40 announcement prior to discharging the 40mm.

Equipment: An Officer had operational issues with the sling of the 40mm.

All issues related to tactics, training and equipment were appropriately addressed by IAFD.

IAFD noted a potential concern that stemmed from the seemingly contradictory de-escalation efforts, i.e. "We can guarantee your safety," followed by numerous beanbag rounds being deployed into and around the subject's vehicle.

The Auto Theft unit operates under statewide authority through the Office of Superintendent of Insurance (OSI) to investigate theft-related crimes.

IAFD also documented the tactics of the auto theft, conducting high-risk stops with a grappler as opposed to the conventional high-risk stops conducted in APD training. The Sergeant advised that normally, people who exit a vehicle are asked to walk back to the officers. However, following the use of the Grappler, officers are trained to have people exit the car and subsequently lie prone. This strategy allows officers to have both time and distance should an individual choose not to comply.

Detectives within the Investigative Services Division are the only personnel in the Department who are trained on grappler use. By policy, the use of grapplers is considered a low-level control tactic. However, on-scene supervisors are required to check on the occupants and make a determination based on reported injuries. On-scene supervisors could deem it to be a Level 1, Level 2 or Level 3 and call out the appropriate IAFD team.

The CPOA review noted no documentation indicating whether APD coordinated with other law enforcement agencies, such as NMSP or BCSO, during the weeks-long surveillance operation. It is unclear if such coordination is standard practice to prevent such operations from being compromised if another agency conducts a felony stop. This point was not addressed in the investigation or in interviews with the involved on-scene supervisors.

No additional recommendations were proposed.

The Civilian Police Oversight Advisory Board reviewed this case at its August 14, 2025 meeting. The Board’s discussion can be found in the August 2025 minutes here: cabq.gov/cpoa