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 # 24-0040107**

Incident Summary:

The incident occurred on May 16, 2024 at approximately 2006 hours. An officer from the Southeast Problem Response Team contacted a male, Mr. W, at the intersection of Central Ave and Mesilla St NE. The officer informed the male that he was under arrest and Mr. W fled on foot North on Mesilla St NE. The officer got into his vehicle and followed Mr. W while using the vehicle's public announcement (PA) system to give warnings to Mr. W. The officer parked his police vehicle at the entrance to the parking lot for the townhouses located at 130 Mesilla St NE. After exiting his vehicle, the officer began backing up and fired his duty pistol toward the direction of Mr. W. The officer notified dispatch by radio "he pointed a gun at me, shots fired." The officer fired two rounds, one impact was located on a car parked in the area and the second impact was not located.

Mr. W climbed the wall and ran from the officer. Backup officers arrived from the other end and were able to apprehend Mr. W without incident. The officers did not initially locate a firearm on Mr. W's person. However, officers did locate multiple small round blue pills which were consistent in appearance with fentanyl. Additionally, an unfired .22 caliber cartridge (a-2) was also located on Mr. W. When he was first contacted by the officer, he was next to a bicycle; however, once officers returned to the initial contact location, the bicycle was no longer present. It is unknown who moved the bicycle from that area. Mr. W was checked at the scene by medical personnel and was not transported to a hospital. An additional follow-up search was conducted on May 17, 2024, and Mr. W's fanny pack as well as the black handgun was located in the backyard of a residence underneath a washer/dryer machine.

Case Review:

Computer-Aided Dispatch Reports
APD Field Reports
CSS Photos
IAFD Reports
IAFD Investigation
Misconduct Investigation
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 Discharge Handgun (x2)

Policy Consideration and Outcome:

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

2-52-5-B-3-B Pre-Use of Force
When feasible, Department personnel shall issue a verbal warning to the individual before using force when doing so would not increase the danger to Department personnel or other people;

2-53-3-W-3-b Level 3 Use of Force 3. 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:
b. Critical firearm discharge

2-53-3-D-1-a 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:
a. Discharging a firearm at an individual; whether intentionally or accidentally

2-53-3-X-1 Use Of Force Definitions
X. Levels of Resistance
1. Active 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); or attempts to leave the scene, flee, hide from detection, or pull away from the officer's grasp. An individual who is brandishing or in possession of a weapon while also not following lawful commands is considered actively resisting. Verbal statements alone do not constitute active resistance. Target glancing alone does not constitute active resistance. Bracing or tensing alone ordinarily do not constitute active resistance, but may if they pose a threat of harm to the officer or other people

2-53-3-N-1-c Use of Force Definitions N. Force 1. Any physical means used to defend the officer or other people, restrain, or otherwise gain physical control of an individual who is resisting. c. An inadvertent covering of an individual with a weapon is not a reportable use of force.

2-52-6-A-9-a-i Prohibited Uses of Force A. Department personnel shall not: 9. Use the weapon-mounted light for general illumination. a. Sworn personnel may use weapon-mounted lights to illuminate a potential threat area when the use of a weapon system is warranted. i. If sworn personnel use a weapon-mounted light and intentionally or unintentionally illuminate the individual, they shall document the show of force in their Uniform Incident Report in addition to any other use of force report, if necessary, unless it is evident that sworn personnel did not cover the individual with their muzzle.

2-53-3-N-1-d-I Use Of Force Definitions 1. Any physical means used to defend the officer or other people, restrain, or otherwise gain physical control of an individual who is resisting d. A complaint of pain from handcuffing during a non-force incident is not a reportable use of force. i. For example, the individual has a preexisting injury, and the handcuffs are likely to cause discomfort to the individual's preexisting injury.

Considering the totality of the circumstances and the preponderance of the evidence, the use of force was deemed reasonable, minimal, proportional, and necessary by IAFD. The officer established a lawful objective to initiate a traffic stop on Mr. W to enforce the city ordinance § 8-3-3-15 that prohibits riding a bicycle on a sidewalk. The officer established the necessity to lawfully detain Mr. W for possession of narcotics after observing the bag of pills fall out of his pocket. The officer further had the necessity to defend himself from Mr. W when he pointed a firearm at the officer.

IAFD found the use of force consistent with APD policy.

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

Additional Considerations:

The force investigation identified additional potential misconduct related to use of OBRD, not reporting policy violations, and search and seizure-related issues. The CPOA review determined that the department appropriately handled all the additional identified issues.

The CPOAB noted several tactics and equipment issues to include handling of narcotics without gloves/PPE, flashlight falling off during the first firearm discharge. Two officers OBRD intermittently turned off while on scene.

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