



City of Albuquerque

Civilian Police Oversight Agency



Diane McDermott
Executive Director

To: Scott Norris, Commander IAFD
From: Diane McDermott, Executive Director
Subject: CPOA Report on Serious Use of Force APD Case # 23-0004184

Incident Summary:

The incident occurred on January 15th, 2023, at approximately 2011 hours. Law enforcement officers responded to a disturbance call indicating that the property security guard had detained and applied pepper spray to a male, identified as Mr. N, subsequent to his infliction of damage to the premises. Upon the officers' arrival, AFR was present at the location, endeavoring to evaluate Mr. N, who had already been handcuffed by the security guard. The officers commenced their investigation on the scene. An earlier call was received that day concerning Mr. N in connection with a domestic dispute. During this incident, the female caller reported that Mr. N "grabbed her 4-month-old baby by the neck," was "locked outside," had "broken in," "threw rocks and broke the window to get in," and "punched her in the face." The dispatch did not provide a description of the individual, and no additional leads were available regarding that call.

After the on-scene investigation, officers issued a criminal trespass notice to Mr. N and instructed him to leave the property. Mr. N refused, and officers utilized low-level control tactics to escort him off the property. As two officers were escorting Mr. N near the entrance gate, he began to actively resist, pulled away from the officer's grasp, and punched one of the officers in the face. Officer S reacted by performing an armbar takedown, directing Mr. N's body weight to the ground. Both officers assisted in the takedown, and once Mr. N was on the ground, he was handcuffed and placed in the patrol car. Officers decided to transport Mr. N to another unit, and during a search, he resisted and tried to pull away from the officers, using his leg to wrap around one officer. Due to his noncompliance and active resistance, officers placed a Passive Restraint System (PRS) on him. He was then transported to MDC, where he remained non-compliant and spat on one officer's face. An empty-hand takedown occurred while he was in handcuffs, escalating the use of force to level 3.

Case Review:

Computer-Aided Dispatch Report
APD Field Reports
Internal Affairs Reports
On-Body Recording Device Videos
APD Policies Regarding Force
CPOA Director's attendance at the Force Review Board Briefing 4/27/23
IAFD Force Investigation
Mandatory Training Referral

Use of Force Types and Involved Officers:

- UOF1 Level (2) Empty hand takedown Officer S
- UOF2 Level (2) Empty hand takedown Officer M
- UOF3 Level (1) Resisted handcuffing Officer S
- UOF4 Level (1) Resisted handcuffing Officer C.M
- UOF5 Level (3) Empty hand takedown in handcuffs Officer C.M

Policy Consideration and Outcome:

The applicable policy for the uses of force is:

Level 2: Empty Hand Takedown

2-52-6-A-6-B:

6. The use of leg sweeps, arm-bar takedowns, or a passive restraint system (P.R.S) shall only be considered and used in the following circumstances:

b. To overcome active resistance.

2-52-4-F-1-A:

1. Officers shall only use force to achieve a lawful objective. Officers are authorized to use force:

a. To effect a lawful arrest or detention of a person;

Mr. N displayed acts of violence toward officers and actively pulled away and punched an officer in the face. This required arresting Mr. N for battery on a police officer. Empty Hand Takedown was reasonable and necessary to restrain and arrest Mr. N.

Level 3: Empty Hand Takedown

2-52-6-A-6-B:

6. The use of leg sweeps, arm-bar takedowns, or a passive restraint system (P.R.S) shall only be considered and used in the following circumstances:

b. To overcome active resistance.

2-52-5-C:

C. Officers shall not use force against a restrained or handcuffed individual unless the force is necessary:

1. To prevent imminent bodily harm to the officer or another person or persons;

2. To overcome active resistance; or

3. To move an individual who is passively resisting.

Mr. N was completely restrained in a Passive Restraint System and intentionally spat at Officer C.M's face. In order to address Mr. N's active resistance, Officer C.M intervened at the MDC and performed an empty-hand takedown on a handcuffed individual.

Level 1: Resisted handcuffing

2-52-6-A-6-B:

6. The use of leg sweeps, arm-bar takedowns, or a passive restraint system (P.R.S) shall only be considered and used in the following circumstances:

b. To overcome active resistance.

2-52-4-F-1-A:

1. *Officers shall only use force to achieve a lawful objective. Officers are authorized to use force:*
 - a. *To effect a lawful arrest or detention of a person;*

Mr. N continued to display active resistance while lying on the ground. Officers applied PRS as a low-level control tactic, and Mr. N complained of pain during the application.

The uses of force were found to be objectively reasonable, minimal and necessary and were deemed within APD policy by IAFD.

Findings:

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

Additional Policy Considerations:

Numerous potential policy violations were identified and investigated during the course of the investigation by the Internal Affairs Force Division:

Regarding Sergeant H: Matters pertaining to Command Staff and Supervisor Responsibilities, Review of Use of Force by Supervisors, and the Chain of Command.

Concerning Officer M: Matters related to Department Personnel Damaging Civilian Property, adherence to all Department and Supervisory Orders, and the Use of the Passive Restraint System (PRS).

As for Officer S: Matters pertaining to Department Personnel Damaging Civilian Property and Utilization of the Passive Restraint System (PRS).

Several mandatory training referrals were also generated as a result of this incident.

The internal investigation into these matters appears to have appropriately addressed the concerns raised.

No additional recommendations were proposed.

The Civilian Police Oversight Advisory Board reviewed this case at its November meeting. The Board's discussion can be found in the November minutes of 11/14/24.