



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 # 23-0008716

Incident Summary:

The incident occurred on February 1st, 2023, at approximately 0735 hours. Officers were dispatched to a call regarding a male (identified as Mr. H) standing in a residential street with a machete and attacking vehicles. Computer Aided Dispatch (CAD) noted that a caller with a company truck was attacked by Mr. H, who wanted to press charges. Officers established a lawful objective to arrest Mr. H for felony criminal damage to property and assault with a deadly weapon. Upon the officers' arrival at the residence, a force array was created to take Mr. H into custody. He stepped out of the house and advanced toward the officers, holding the machete in his left hand, thus presenting a deadly threat to the officers.

Officers warned Mr. H to drop the machete, but he did not comply. He showed a propensity for violence, struck the patrol car with the machete, actively advanced towards the officers with a machete in hand, and attempted to harm them. During the altercation, Mr. H threw the machete towards an officer, hitting them in the foot. He was very hostile and acting in a disorderly manner. Officers resorted to less lethal weapons to address the situation. As Mr. H attempted to re-enter the residence, the officers prevented him using empty hand techniques and arrested him. He was then transported to the hospital to have the ECW probes removed. He was charged with aggravated battery on a peace officer, criminal damage to property over \$1000, criminal damage under \$1000, and disorderly conduct.

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
IAFD Force Investigation
Mandatory Training Referral

Use of Force Types and Involved Officers:

- UOF1 Level (3) ECW deployment (x1) Officer 1
- UOF2 Level (3) ECW deployment (x1) Officer 2
- UOF3 Level (2) Empty Hand Takedown Officer 1

- UOF4 Level (2) ECW Deployment (x2) Officer 1
- UOF5 Level (2) Empty Hand Takedown Officer 2
- UOF6 Level (2) 40mm Deployment Officer 3
- SOF7 Level (1) Handgun: pointing (x2) Officer 4
- SOF8 Level (1) Rifle: pointing Officer 5
- SOP9 Level (1) ECW: pointing Officer 2

Policy Consideration and Outcome:

The applicable policy for the uses and show of force is:

Level 3: ECW Deployment

2-53-3-W-3-e:

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:

e. Three (3) or more ECW discharges on an individual during a single interaction, regardless of the mode or duration of the discharge, and regardless of whether the discharges are by the same or different officers;

2-54-6-A-1-c:

A. ECW Modes

1. Sworn personnel shall choose which mode they discharge depending upon the articulable facts and circumstances at the time of discharge and the guidelines and restrictions set forth in this SOP. The 12 three (3) types of ECW modes are:

c. Standoff Mode: Discharging the ECW with a cartridge on the device, which propels the probes towards the individual and, upon effective contact, is intended to cause neuromuscular incapacitation.

Level 2: Empty Hand Techniques (Takedown)

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);

Level 2: 40mm Deployment

2-53-3-W-2-b:

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:

b. Use of a beanbag shotgun or 40-millimeter impact launcher, including when it is fired at an individual but misses;

2-54-9-A-3:

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.

Level 1: Show of Force: Handgun, Rifle

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.

2-54-6-A-1-a:

1. Sworn personnel shall choose which mode they discharge depending upon the articulable facts and circumstances at the time of discharge and the guidelines and restrictions set forth in this SOP. The three (3) types of ECW modes are:

a. Show of Force Mode: Pointing an ECW and/or a laser sight an individual or by using a warning arc;

Mr. H continued to show active resistance and a propensity for violence and was armed with a deadly weapon when officers arrived. He attacked the officers and did not comply with their commands. The officers had a lawful objective to arrest him. They employed minimal force to achieve this outcome.

The uses and shows 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 and shows of force were within policy.

Additional Policy Considerations:

The CPOA would like to commend the officers involved in this case for their ability to manage the hostile individual with minimal use of force and maximum composure.

A training referral has been generated concerning the use of the Electronic Control Weapon (ECW) during the course of the force investigation. The issue was addressed appropriately/

Concerns were expressed regarding the rescue operations, as it was noted that the ECW probes were not removed at the scene, contrary to historical practices, which resulted in Mr. H being transported to the hospital.

No additional recommendations were proposed.

The Civilian Police Oversight Advisory Board reviewed this case at its October meeting. The Board's discussion can be found in the October minutes of 10/10/24.