



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 # 23-0010895

Incident Summary:

The incident occurred on February 8th, 2023, at approx. 1652 hours. Detectives from multiple units were conducting a tactical plan in the southeast area. Several officers were in an undercover as well fully marked vehicles conducting proactive enforcement. A traffic stop was attempted in the area of Eubank and Central, and the vehicle fled the stop at high rate of speed.

The detective immediately disengaged, and the information was communicated to other undercover officers near the scene. Air Support soon arrived overhead and assumed visual surveillance. The plan was devised to use spike strips; however, due to erratic behavior, no positive spikes were deployed.

The driver continuously drove for about an hour and, abandoned the vehicle in the northeast area, and left on foot. He began running northbound as undercover units arrived in the area. The individual was contacted by the detectives and was seen armed with a knife, and lunged towards them, causing the detectives to step back and create distance. The individual kept running, and the detectives pursued him on foot, giving commands that he ignored.

One detective discharged his 40mm twice, with one unintentional strike to the individual's head and the other striking in the back. Another detective discharged the 40mm three times with one strike to the leg and two misses. The individual eventually lay on the ground and was taken into custody without further incident. The vehicle he was driving was confirmed stolen; he was transported to Lovelace for a laceration to the head. He was later booked for receiving and transferring a stolen vehicle, aggravated fleeing from law enforcement, aggravated assault on a police officer, trafficking controlled substances, and multiple other felony warrants.

Case Review:

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

Use of Force Types and Involved Officers:

- UOF1, Level 3 SPO1c. V: 40mm x1 (Head Strike)
- UOF2, Level 2 SPO1c. V: 40mm x1 (Strike)
- UOF3, Level 2 SPO1c. L: 40mm x1 (Strike)
- UOF4, Level 2 SPO1c. L: 40mm x2 (Miss))
- SOF1, Level 1 SPO1c. V: Handgun
- SOF2, Level 1 SPO1c. L: 40mm
- SOF3, Level 1 PO1c. W: Handgun

Policy Consideration and Outcome:

The applicable policy for the uses of force is:

2-54-4 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.

2-54-4 Intermediate Weapon System General Requirements

B. Intermediate Weapon System Use Guidelines

3. Shows of force are not considered the same as the application of the same force option. With the exception of pointing a firearm at an individual, sworn personnel may use a show of force to gain compliance with an individual who is passively resistant so long as the force is otherwise reasonable and is the minimum amount of force necessary.

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.

Based on the totality of the circumstances, the force was found to be reasonable, minimal, proportional and necessary as officers had a lawful objective to arrest this individual after he fled from the traffic stop in a stolen vehicle. The individual abandoned the car and fled on foot. He attempted to enter the surrounding neighbors' yards prior to the detectives' arrival, potentially placing bystanders in danger as well. Detectives were unable to safely approach the individual who was actively fleeing from detectives while armed with a knife. A 40mm less lethal launcher was utilized along with shows of force with 40mm and a handgun by several detectives. The use of 40mm was deemed a safer option compared to the use of deadly force against the individual as he presented a deadly threat to the detectives.

The use and show of force were found to be within APD policy by IAFD.

Findings:

The CPOA and CPOAB agreed with APD's determination to find the uses of force within policy.

Additional Policy Considerations:

The non-activation of OBRD before contact by one detective was identified, along with failure to administer the use of force warning prior to the 40mm deployment by multiple detectives.

A detective also appeared to have an unreported show of force from his handgun.

The detectives should be praised for using less lethal force, creating distance, and avoiding a situation where they had to use deadly force despite the threat posed by this individual, as he aggressively leaned toward a detective while armed with a knife when told to stop.

No additional recommendations were proposed.

The Civilian Police Oversight Advisory Board reviewed this case at its March 13th, 2025 meeting. The Board's discussion can be found in the March minutes here: cabq.gov/cpoa

