



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 # 23-0013499

Incident Summary:

The incident occurred on February 17, 2023, at a residence at approximately 2249 hours. Officers were dispatched to the location in response to a family dispute call. Once the officers arrived on scene, they talked to the mother and sister of the individual involved. The sister explained that her brother was cutting his hair in the bathroom and became aggressive. He pushed her to the floor, threw her phone, and jumped on her car, breaking the windshield. The family told officers he has a history of threatening them, and they called the police on him a few months earlier.

The family informed officers that the individual's drug of choice is methamphetamine and, based on his behavior, he may be under its influence. The officers established a lawful objective to arrest the subject on charges of battery against a household member and criminal felony damage to property.

As officers were outside waiting for CSS to document damages on the property, the subject arrived at the house. He was then contacted by the officers, detained, and secured in the police vehicle. While seated in the back of the vehicle, the subject repeatedly slipped his handcuffs to the front.

The subject repeatedly asked officers to use the bathroom and threatened several times that he would urinate in the car. Three officers allowed him to urinate outside the vehicle. As he was escorted back to the car, he spat in the face of one of the officers, which led the officer to perform an empty hand takedown on the ground. The subject was placed in a spit sock and later in a passive restraint system (PRS) as he continued to actively resist.

He complained of a wrist injury and was taken to the hospital by an officer. He refused treatment and was later charged with battery on a household member, felony criminal damage, and battery on a peace officer.

Case Review:

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

Use of Force Types and Involved Officers:

- UOF1, Level 3 Ofc. C: Empty Hand Takedown (Handcuffed)
- UOF2, Level 3 Ofc. S: Empty Hand Attempted Leg Sweep (Handcuffed)
- UOF3, Level 3 Ofc. A: Empty Hand Takedown (Handcuffed)

Policy Consideration and Outcome:

The applicable policy for the use of force is:

*Level 3: Empty Hand Leg Sweep (Attempt) & Level 3: Empty Hand Take-Down
2-53-3(W)(3)(h) 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

h. Any Level 2 use of force against a handcuffed individual

Based on the totality of the circumstances, the force used was found to be reasonable, minimal, proportional, and necessary, since officers had a lawful objective to detain or arrest the subject as they responded to a domestic violence call where the subject battered family members. The subject actively resisted, slipped his handcuffs to the front, spat on an officer's face, and attempted to break the grip. The officers used empty-hand takedowns and leg sweeps, as well as PRS, which was deemed minimal compared to ECW, which could be considered excessive in this incident. The subject in the case was also handcuffed in front at the time of the takedown and actively resisted throughout the incident.

The use of force was found 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:

No policy violation resulted from this force incident.

Potential misconduct was identified during the course of the force investigation, including an allegation of sexual acts made by the subject while he was urinating, claiming that one of the officers touched his genitals; the issue was unfounded.

There was also a potential allegation against the on-scene supervisor for not reporting all known policy violations, and another officer was investigated for being disrespectful toward the subject.

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