



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 # 23-0014583

Incident Summary:

The incident occurred on February 21, 2023, at approximately 2234 hours. An officer was conducting a patrol at the Marbella apartments when he observed a GMC pickup running and parked in the lot. The officer saw Mr. S standing on the steps of the truck. When Mr. S saw the officer, he got back inside. The officer ran the license plate through NCIC, and it returned stolen. The officer pulled behind Mr. S, and he started to pull the vehicle out. The officer drove after him, activated his emergency lights, and Mr. S jumped out and fled on foot while the vehicle was still in motion.

The officer pursued him on foot, initiating a chase. The officer instructed him to halt and issued a force warning as Mr. S continued to flee. The officer notified dispatch and requested backup during the pursuit, which lasted over a minute through the complex and parking areas. During the pursuit, the officer issued another command, instructing him to get down or he would be tased. Mr. S did not comply and ignored the officer. He eventually tripped over a curb and fell between two parked vehicles. The officer ordered him to show his hands and lie on his stomach. Mr. S complied and raised his hands but refused to lie on his stomach after multiple commands from the officer.

As the officer grasped his right arm to guide him onto his back and detain him, he stood up and struck the officer twice in the face with a closed fist. The officer released him, and Mr. S. resumed running. The officer commanded him to stop, and as he was hopping over a fence, the officer deployed an Electronic Control Weapon (ECW) on his back. At this juncture, his On-Body Recording Device (OBRD) dislodged while he was climbing over the fence. The officer was heard discharging the ECW a second time, which struck the rear of Mr. S.'s head, rendering him incapacitated. He was subsequently taken into custody, and Emergency Medical Services transported him to the hospital due to his injuries. Officers also discovered multiple items of drug paraphernalia on his person. He has been charged with receiving and transferring a stolen vehicle, battery on a peace officer, possession of a controlled substance, and resisting or evading arrest.

Case Review:

Computer-Aided Dispatch Report
APD Field Reports
On-Body Recording Device Videos
APD Policies Regarding Force
IAFD Force Investigation
IAFD Reports

Use of Force Types and Involved Officers:

- UOF1, Level 3 Officer 1: Electronic Control Weapon (serious injury) x1
- UOF2, Level 2 Officer 1: Electronic Control Weapon x1

Policy Consideration and Outcome:

The applicable policy for the uses of force is:

2-54-6-B-1 ECW Discharging Guidelines

Sworn personnel shall be authorized to discharge an ECW to control an actively resistant individual when attempts to subdue the individual by other tactics have been, or will likely be, ineffective and there is a reasonable expectation that it will be unsafe for the officer to approach the individual within contact range.

2-53-3-W-3 I

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.

Based on the totality of the circumstances, the force used was deemed to be reasonable, minimal, proportionate, and necessary by the Internal Affairs Force Division (IAFD). The officer pursued a lawful objective in detaining Mr. S, as he was the operator of a stolen vehicle and evaded the officer's attempt to apprehend him. A foot chase was initiated by the officer, and Mr. S did not comply with the officer's lawful directives to cease, despite multiple warnings regarding the potential application of he did not stop. Due to Mr. S's active resistance, the use of force satisfied the criteria of reasonableness, minimality, and necessity.

The uses of force were 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:

A possible policy violation was identified during the incident and was addressed properly by the department. The second ECW deployment, which had an impact behind Mr. S's head, was executed, but no video footage was available for review—only audio from the OBRD was recorded. The audio confirmed the officer issued a warning of 'stop' before the second ECW deployment. The department launched a misconduct investigation to determine whether the officer intentionally used the ECW in the prohibited area (Head).

A mandatory training referral was issued for the involved officer during the force review board's review of this case concerning a foot chase. The involved officer has completed the training.

The officer's OBRD fell off as he jumped over the fence while chasing Mr. S. His radio also flew out, and he was directed to contact the property division for better radio mounting solutions.

No additional recommendations were proposed.

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

