



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 # 23-0015832

Incident Summary:

The incident occurred on February 26, 2023, at approximately 0231 hours at the Metropolitan Detention Center (MDC). The case involved an empty-hand takedown in handcuffs by an APD prisoner transport unit (PTU) officer, which elevated the force classification to level 3 use of force. While awaiting processing at MDC, Mr. H underwent a medical evaluation, wherein the medical staff determined it necessary to administer Narcan. Mr. H exhibited disorderly conduct, expressed impatience regarding the speed of his processing, and demonstrated noncompliance. During the transfer of custody to MDC personnel, the officer was informed that the facility was not yet prepared to accept custody and that he was required to wait. Mr. H displayed impatience upon being advised once more that he had to wait, subsequently beginning to resist actively. He initiated banging on the door with his handcuffs and issued threats to harm other arrestees. The PTU officer provided him with a force warning, and shortly thereafter, Mr. H expressed remorse to the officer, stating, "I am not myself."

Upon completion of the pre-booking process, the PTU officer instructed Mr. H to proceed into the sally port, wherein the transfer of custody to the MDC is executed. As Mr. H approached the sally port, MDC personnel informed the PTU officer that they were not yet prepared to accept Mr. H. Subsequently, Mr. H seated himself on the floor and then initiated movement toward the restricted area. The PTU officer employed an empty-hand takedown maneuver to thwart his entry and to reestablish control over the situation. As a result of Mr. H's descent to the ground while handcuffed, the use of force was deemed to be at level 3.

Case Review:

Computer-Aided Dispatch Report
APD Field Reports
Internal Affairs Reports
On-Body Recording Device Videos
APD Policies Regarding Force
IAFD Force Investigation
IAPS Misconduct Investigation
Mandatory Training Referrals

Use of Force Types and Involved Officers:

- UOF1 Level (3) Empty hand takedown in handcuffs PTU Officer S

- UOF2 Level (1) Empty hand control (x2) PTU Officer S

Policy Consideration and Outcome:

The applicable policy for the uses of force is:

SOP 2-53-3(W)(2)(d)

2. 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)

SOP: 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

Mr. H was sitting on the floor and did not display any resistance. When told he needed to wait further, he stood up from the floor and walked towards the restricted area. Officer S utilized empty hands to gain control of Mr. H, and during that time, he fell to the floor, and Officer S fell on top of him. Mr. H complained of wrist pain.

SOP: 2-53-3(W)(1)(a) Level 1 Use of Force:

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.

a. Any Level 1 use of force against an individual in handcuffs remains a Level 1 use of force.

Officer S attempted to guide Mr. H into the LEA area, but Mr. H actively resisted by employing his legs to obstruct Officer S's maneuvers. Subsequently, Officer S executed Level 1 empty hand control to assist in transporting Mr. H into the sally port area. The second instance of Level 1 use of force transpired when Officer S utilized empty-hand control techniques to elevate Mr. H from the floor and position him onto the bench within the LEA. The force applied by Officer S was anticipated to induce transitory pain or a pain-related complaint, although Mr. H did not articulate any discomfort during this action.

The uses of force were found 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:

Potential policy violations were identified and investigated by the Internal Affairs Professional Standards:

The on-scene supervisor initially misclassified the force as non-force and later as level 1 use of force. Due to this misclassification, there was no IAFD call-out. The misclassification was later discovered,

and the case was assigned to IAFD to investigate as a level 3 use of force. IARs were also submitted to IAPS to initiate an internal investigation into the PTU Manager for a chain of command review of the use of force and reporting violations, as well as the PTU Sergeant for supervisory investigative responsibilities and on-scene duties for classifying force.

Mandatory training referrals were also generated for the involved officer and PTU sergeant.

The IAPS investigation into these issues seemed to address these concerns appropriately.

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: cabq.gov/cpoa

