



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 # 23-0016320

Incident Summary:

The incident occurred on March 9, 2023, at approximately 5:18 PM. An officer with the auto theft unit located a Chevrolet Tahoe, which, upon checking the license plate through NCIC, was found to be stolen. Multiple auto theft detectives responded to the location and conducted surveillance on the vehicle. The vehicle eventually entered Rio Rancho, and the auto theft detectives briefly lost sight of it. Detectives then observed the vehicle fleeing from Rio Rancho officers south on NM 528 and back into Albuquerque city limits. They learned that the driver had evaded Rio Rancho Police and rammed a patrol car, nearly striking a Rio Rancho Police Officer.

The officer maintained vigilant surveillance over the vehicle, which subsequently proceeded to a residence located in the northwest region of the city. The driver, identified at the scene as Mr. J, exited the vehicle only to re-enter in the company of an unidentified woman, after which they commenced driving away. At this point, the National Crime Information Center (NCIC) confirmed that Mr. J had three outstanding felony warrants and was deemed armed and dangerous. Surveillance observations further indicated that Mr. J and the woman entered a distinct dark-colored SUV, from which they then proceeded to vacate the area.

Auto Theft detectives kept tailing the vehicle as it made multiple turns and halted at various points. Eventually, the vehicle reached Presbyterian Downtown Hospital. Mr. J, a passenger, exited the vehicle and walked into the south parking garage. Detectives verified that both Mr. J and the passenger entered the hospital. Plainclothes Auto Theft detectives continued to monitor them within the hospital, where they traversed several sections before finally exiting through the south side and heading toward Silver Ave SE.

A number of officers and detectives proceeded southward towards Silver in their vehicles, which comprised a mixture of both marked and unmarked cars. Mr. J and his passenger traversed Silver Street and entered a parking lot. Officers #1, #2, and #3 responded to the scene. Officer #3 exited his vehicle and announced, "Police department," which prompted both individuals to flee. Officer #3 then commanded, "Police department, get on the ground, get on the ground now." At that stage, the passenger ceased fleeing, while Mr. J continued to run.

Officer #1 brought his patrol vehicle nearer to Mr. J. As he did this, Officer #2 left his vehicle and rushed toward Mr. J. Numerous officers, detectives, and patrol vehicles were in the vicinity. At that

moment, Mr. J continued to resist by attempting to flee. Officer #1 released his K9. Mr. J suffered bite injuries on his left elbow and was taken into custody.

He was sought on accusations of aggravated battery involving a deadly weapon, the receipt and transfer of a stolen motor vehicle, along with two felony warrants pertaining to the receipt and transfer of a stolen motor vehicle, and a felony warrant related to aggravated battery involving a deadly weapon. Subsequently, he was apprehended.

Case Review:

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

Use of Force Types and Involved Officers:

- UOF1 Level (3) K9 Apprehension Officer 1
- SOF1 Level (1) 40mm Officer 2

Policy Consideration and Outcome:

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

2-53-3-MM Show of Force

Pointing a firearm, beanbag shotgun, 40-millimeter impact launcher, OC spray, or ECW at an individual, or by pointing the laser sights of the ECW at an individual or by using a warning arc. A show of force shall be reported to the appropriate first line supervisor and reviewed as a Level 1 use of force.

1-64-4-A-3

It is the policy of the Department to allow the deployment of PSDs in the following 3 circumstances:

- a. To apprehend violent felony individuals;*
- b. To apprehend individuals who pose an immediate threat to the safety of the officers or others;*

Mr. J was engaged in active resistance to arrest and evaded apprehension by officers present at the scene when the canine unit was deployed. He had perpetrated multiple felonies that day, including the operation of a stolen motor vehicle and having an outstanding violent felony warrant for his arrest. Previously, he had fled from officers in Rio Rancho during a traffic stop, deliberately colliding with a police officer's vehicle. During this incident, the officer expressed a fear for his life, which resulted in a charge of aggravated assault against a police officer. The officers had a lawful objective in their attempt to apprehend him.

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 investigation identified misconduct concerning the use of on-body recording device by an officer. The issue was handled appropriately.

No additional recommendations were proposed.

The Civilian Police Oversight Advisory Board reviewed this case at its September meeting. The Board's discussion can be found in the September 12, 2024 minutes here: cabq.gov/cpoa.

