



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 # 23-0018545

Incident Summary:

The incident occurred on March 7, 2023, at approximately 3:45 PM. It involved an empty-hand strike in handcuffs by an officer, which escalated the use of force to a level 3 incident. The officer, engaged in proactive policing duties while on patrol, observed a female seated on the sidewalk with her head concealed beneath her hoodie. The individual was identified as Ms. J. The officer noted that his experience indicated this was a common method for individuals to consume narcotics in plain view. He exited his patrol vehicle, positioned himself near her, and observed Ms. J. using narcotics, noting the sound of foil being manipulated and her head moving inside the hoodie multiple times. The officer announced, "Police department," which startled Ms. J. He then informed her that she was detained and advised her not to resist or attempt to flee, as force might be employed if she did so. Additionally, he notified her that she had an outstanding warrant and that, if verified, she would be subject to arrest.

Upon confirmation of the warrant, the officer detained Ms. J and secured her in handcuffs. During the handcuffing, the officer used his other hand to strike her in the back. She immediately complained about the punch. The officer clarified that he had a preexisting injury to his finger, which Ms. J had squeezed during the handcuffing process, and explained that the punch was a response to concerns about potential damage to the bone if he did not free his hand. Subsequently, the officer escorted her to the rear of the patrol vehicle and informed the on-scene Sergeant of the use of force. AFR arrived to perform a medical assessment; Ms. J declined to undergo evaluation and denied any injuries. She was then transported to PTC and charged with Battery on a Peace Officer and a Misdemeanor Warrant.

Case Review:

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

Use of Force Types and Involved Officers:

- UOF1 Empty hand strike (Handcuffed) Level (3), Officer W

Policy Consideration and Outcome:

The applicable policy for the use of force is:

2-52-6-A-4(a-c) Prohibited Uses of Force

Use force against a restrained or handcuffed individual unless the force is necessary:

- a) To prevent the imminent threat of harm to department personnel, the individual, or another person;*
- b) To overcome active resistance; or*
- c) To move an individual who is passively resisting*

2-53-3-W-2-d Level 2 Use of Force

d). Use of empty-hand techniques that result in injury or complaint of injury (e.g., strikes, kicks, takedowns or leg sweeps)

2-53-3-W-3-h Level 3 Use of Force

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

In this instance, Officer W used an empty strike against a handcuffed individual who initially had a hold of his bent finger and caused pain, since the officer had a preexisting injury to that finger. The officer pulled his finger from the individual's grasp, no longer having an imminent threat of harm.

Based on the totality of the circumstances, using an empty hand strike on Ms. J while handcuffed was not necessary to prevent further harm or injury to the officer's finger. It was not reasonable as the officer could get his finger free. It was minimal in that it was a quick strike to the back. No other techniques or intermediate tools were used. Based on the preponderance of the evidence, the empty-hand strike while handcuffed was not within APD policy. Ms. J did not sustain any injuries.

This use of force was found not within APD policy by IAFD.

Findings:

The CPOA and CPOAB agreed with APD's determination that the use of force was **not within policy**.

Additional Considerations:

An IAPS investigation was conducted for the prohibited use of force (2.52.6.A.4).

CPOAB discussed de-escalation and professionalism training for this officer. Commander clarified that officers do not get professionalism training for such incidents. CPOAB also questioned whether other mitigating factors were considered prior to the imposition of discipline and what the final discipline was.

No additional recommendations were proposed.

The Civilian Police Oversight Advisory Board reviewed this case at its January 9th, 2025 meeting. The Board's discussion can be found in the January minutes here: cabq.gov/cpoa