



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 # 23-0020132

Incident Summary:

The incident transpired on March 12, 2023, at approximately 2340 hours. Officers were dispatched to the Montano Rail Runner Transit Center in relation to a domestic dispute. Comments documented in the Computer Aided Dispatch System (CAD) indicated that the caller reported her ex-boyfriend, Mr. M, was present at the scene, exhibiting high levels of intoxication, and had committed an act of battery. Additional remarks indicated that the 911 operator could hear a male voice yelling at the caller, which sounded quite violent. Upon their arrival, officers made contact with Mr. M, who exited his vehicle and approached the officers rapidly. He persistently requested his keys in order to leave, and following a confrontation, he expressed, "I guess I gotta walk home," prior to making an attempt to leave. Officers subsequently detained him, and he was taken into custody for the battery of a household member.

The officers conducted a search incident to the arrest. During this search, Mr. M lashed out at the officers by kicking and attempted to trip them with his legs. Subsequently, Mr. M positioned himself in the footwell of the police vehicle and refused to enter the car. Although the officers instructed him to assume a proper sitting position within the vehicle, he continued to stand. The officers perceived that Mr. M was attempting to escape, which led one officer to execute an empty-hand takedown while Mr. M was in handcuffs, thus escalating the use of force to Level 3 in accordance with APD policy.

The officers eventually secured control of Mr. M, at which point he indicated a willingness to cooperate. They proceeded to place him in the police vehicle. Upon the arrival of rescue personnel, Mr. M once more refused to cooperate and began kicking at the officers, attempting to trip them again. The officers notified Mr. M of their intention to utilize a Passive Restraint System (PRS). The attempt to place Mr. M in the PRS was met with resistance, as he declined to kneel. Consequently, the officers executed another empty-hand takedown on Mr. M and applied the PRS. The initial application of the PRS proved unsuccessful, necessitating the officers to apply a new PRS. Mr. M was subsequently evaluated by rescue personnel at the scene and later transported to the hospital due to minor abrasions on his forehead. He was thereafter transported to the Metropolitan Detention Center (MDC) and charged with battery against a household member as well as resisting, evading, or obstructing an officer.

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 6/29/23
IAFD Force Investigation

Use of Force Types and Involved Officers:

- UOF1 Level (3) Empty hand takedown in handcuffs (x2) Officer E
- UOF2 Level (3) Empty hand leg sweep (Attempted) in handcuffs Officer E
- UOF3 Level (3) Empty hand takedown in handcuffs Officer M

Policy Consideration and Outcome:

The applicable policies for the uses of force are:

Empty Hand Techniques: Takedown and Leg Sweep

2-52-6-A-4-b

A. Department Personnel Shall not:

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

b. To overcome active resistance

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);

2-53-3-W-3-h

3. 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.

Level 3 use of force includes:

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

2-52-6-A-4-c

A. Department Personnel Shall not:

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

c. To move an individual who is passively resisting

Mr. M was exhibiting active resistance against the officers and declined to comply with their requests, displaying refusal to enter the vehicle by tense body posture, attempting to kick the officers, and obstructing their efforts to secure him inside the unit. Upon Mr. M's active resistance, characterized by lunging forward in a bid to escape from the officer while secured with handcuffs and situated in the footwell of the patrol SUV, the officer utilized his momentum to propel Mr. M toward the ground, resulting in a loss of balance and the infliction of an abrasion on the left side of his forehead. Upon the arrival of AFR at the scene, it was observed that Mr. M had maneuvered his handcuffs to the front. The officers subsequently re-secured him behind his back. Following this, they determined that he necessitated placement in a PRS due to his non-compliance, as he was actively kicking and moving about. Consequently, in light of his resistance, the PRS was applied.

The uses of force were found to be objectively reasonable, minimal, and necessary and were deemed to be within APD policy by IAFD.

Findings:

The CPOA and CPOAB agreed with IAFD's determination.

Additional Policy Considerations:

The IAFD investigation identified an equipment issue regarding the application of the Passive Restraint System. The issue was appropriately handled by the department.

No additional recommendations were proposed.

The Civilian Police Oversight Advisory Board reviewed this case at its December meeting. The Board's discussion can be found in the December minutes of 12/09/24.

