



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 # 23-0022423

Incident Summary:

The incident occurred on March 20, 2023, at approximately 2307 hours. Officers were dispatched following a report concerning a familial dispute at a residential property. The dispatch was initiated by a parent of Mr. L, who conveyed that her son had forcefully entered the residence by pushing past her and securing himself inside. Furthermore, it was reported that Mr. L claimed that unidentified individuals were pursuing him, indicating that they were referred to as "skin walkers." Prior to the arrival of the Albuquerque Police Department officers, Mr. L was last observed traveling eastbound on Hannett Street towards San Mateo. Subsequently, dispatch received an additional call from 4709 Hannett Avenue NE, reporting that a male subject was outside her residence striking the door.

At approximately 2302 hours, Officer #1, while present in the vicinity, heard a loud sound and proceeded to 4709 Hannett Ave NE, where he encountered Mr. L. Officer #1 instructed Mr. L to lay down several times, to which Mr. L responded, "I can't, people are after me." Mr. L positioned himself beside the residence and began to gaze toward a broken window. Officer #1 cautioned Mr. L to cease his target glances and to concentrate his attention on him. Mr. L advanced towards the broken window and began to inspecting the interior. Officer #1 advised Mr. L to "Stay right there." Subsequently, he entered the residence through the broken window.

Officer #1 approached the front door and made contact with the resident, who granted him entry to the residence. Upon entering, Officer #1 unholstered his Taser. The resident retreated towards the rear of the residence, and Mr. L commenced to pursue him. Officer #1 issued verbal commands for Mr. L to cease his advance; however, he did not comply. He announced, "Taser, Taser, Taser," successfully deploying his Taser with the probes making contact with Mr. L. He was carried to the police vehicle due to his non-compliance. He was subsequently taken into custody and charged with breaking and entering, battery and assault on a household member, criminal damage to property, and resisting/evading a police officer.

Case Review:

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

Use of Force Types and Involved Officers:

- UOF1 Level (3) Empty hand control-handcuffed (injury) Officer 1
- UOF2 Level (3) Empty hand control-handcuffed (injury) Officer 2
- UOF3 Level (3) Empty hand control-handcuffed (injury) Officer 3
- UOF4 Level (2) ECW Standoff Officer 1
- SOF1 Level (1) ECW Painting Officer 1
- SOF2 Level (1) ECW Painting Officer 1
- Low-level control tactics (Officer 1, 2, 3)

Policy Consideration and Outcome:

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

2-54-4-B-4

Shows of force are not considered the same as the application of the same force option. With the exception of pointing a firearm at an individual, sworn personnel may use a show of force to gain compliance with an individual who is passively resistant so long as the force is otherwise reasonable and is minimum amount of force necessary.

2-54-6.B

2. Sworn personnel may discharge an ECW only when such force is necessary to protect themselves, the individual, or other people from physical harm and after considering less intrusive means based on the threat or resistance encountered

4. When feasible, sworn personnel shall issue a verbal warning to an individual and allow that person a reasonable time to comply with the warning, prior to using discharging any ECW, unless doing so would place an officer or other person at increased risk. An example of a verbal warning is, "Stop, or you will be Tased!"

2-54-4-B-4

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2-52-6-A-4 (a-c)

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(s);*
- b. To overcome active resistance; or*
- c. To move an individual who is passively resisting*

The officers performed an action that was used to overcome active resistance and to move a passively resistant individual. Mr. L was moving his body around while he was being carried by the officers, refused to stand on his own, refused to get into the car, and was kicking his legs. Officers had a lawful

objective to take Mr. L into custody.

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:

During the supervisory review, a potential policy violation was identified. Following a successful deployment of the ECW, the individual involved in the Use of Force was handcuffed and maintained in a face-down stabilization position for approximately three minutes. Officer K and Officer Ka made brief attempts to reposition him into a rescue stance; however, the individual did not comply, and their attempts were subsequently terminated.

Officers were endeavoring to secure a non-compliant subject within a police vehicle. During this period, the individual sustained injuries. This incident was classified as a potential policy violation related to unreported use of force.

Officer K further indicated that he would administer the Taser to Mr. L again should he fail to comply. At that moment, Mr. L was handcuffed behind his back and was passively resisting by being verbally non-compliant. The IAFD recognized a training issue pertinent to this case.

Officer K responded to a domestic dispute in the absence of backup. Departmental training protocols instruct officers to respond to high-threat scenarios accompanied by backup officers to ensure safety and to facilitate potential de-escalation of the situation, thereby diminishing the necessity for the application of force.

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 09/12/2024 minutes here: cabq.gov/cpoa.