



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 Officer Involved Shooting APD Case # 23-0051644

Incident Summary:

On June 29, 2023, around 9:23 PM, officers were called to respond to a stabbing incident (27-9) at the McDonald's at 925 San Pedro Drive Northeast. A male stabbed the driver of a vehicle in the neck while they were at the drive-through and then ran away from the scene. The driver suffered serious injuries and crashed his car into the next vehicle in line after being attacked. Officers worked quickly to gather a description of the offender.

Officers were alerted by a passerby who reported that a male individual attired in all black clothing was observed wielding a knife near the intersection of Lomas and Louisiana NE. This intersection is situated to the east of the location of the stabbing incident. Upon responding to the scene, officers identified a male, Mr. S, who was in possession of a knife. Mr. S was initially positioned in the median separating the northbound and southbound lanes on Louisiana NE, just north of Lomas NE. As the officers began to approach Mr. S, he proceeded to move westward, crossing to the west side of Louisiana NE. Numerous bystanders were present near a bus stop bench. Mr. S approached a bystander with a knife in his hand. He raised his arms in the air towards one of the bystanders, prompting concerns among the officers regarding the safety of individuals in the vicinity. Four officers utilized deadly force to stop his actions. The officers also shot two bystanders (one shot once, the second shot six times; both survived). Mr. S succumbed to his injuries.

Case Review:

Computer-Aided Dispatch Reports
APD Field Reports
Internal Affairs Reports
On-Body Recording Device Videos
APD policies regarding force
Criminalistic Report
MATF Reports
Mandatory Referrals
IAFD Force Investigation
IAPS Misconduct Investigation
CPOA Director's attendance at the Force Review Board Briefing

Use of Force Types and Involved Officers:

- UOF 1 Level (3) OIS: Handgun x7 A/Sgt (1)
- UOF 2 Level (3) OIS: Handgun x4 Officer (2)
- UOF 3 Level (3) OIS: Handgun x2 Officer (3)
- UOF 4 Level (3) OIS: Handgun x12 Officer (4)
- SOF 1 Level (1) SOF: Beanbag Officer (5)
- SOF 2 Level (1) SOF: Handgun Pointing Officer (6)

Policy Consideration and Outcome:

The applicable policies that were investigated by Internal Affairs Force Division for the use of force/show of force for all involved officers are:

2.54.4.B.4: Sworn personnel shall not point a firearm at an individual unless the officer reasonably believes the individual presents a threat to the officer, other sworn personnel, or community members.

2.54.4.B.3: Shows of force are not considered the same as the application of the same force 2 option. With the exception of pointing a firearm at an individual, sworn personnel may use a show of force to 3 gain compliance with an individual who is passively resistant so long as the force is otherwise reasonable 4 and is the minimum amount of force necessary.

2.52.6.B.1.c: Department personnel shall not use deadly force: (c) Against an individual unless the officer has an objectively reasonable belief that an individual poses a threat of death or serious 3 physical injury to Department personnel or another person.

2.52.6.A.3: Department personnel shall not engage in objectively unreasonable actions or tactics or make statements that escalate a situation such that the use of force becomes necessary.

2.3.4.A.2.d: Sworn personnel shall adhere to the following rules of firearm safety at all times: Be sure of their target and what lies beyond it.

2.52.4.A: The Department holds Department personnel to a higher standard than that articulated in Graham v. Connor, 490 U.S. 286 (1989) when performing their duties on behalf of the Department and the community. Department personnel are trained to consider using only force that is necessary and reasonable under the circumstances, and such conduct will be evaluated from the perspective of a reasonable officer.

Four officers discharged a total of 25 rounds, as documented in the criminalistic report. The officers reasonably believed Mr. S to be the same individual who had stabbed a male approximately two and a half hours prior. Upon encountering him, he did not drop the knife and continued approaching a male bystander while holding the knife. The officers assessed that he posed an imminent threat to the safety of the bystanders. Consequently, the officers employed deadly force.

The uses of force by multiple officers were 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:

Potential policy violations and training considerations were identified for multiple officers during the IAFD investigation. The investigation addressed the deficiencies found during the incident, and the department took appropriate action.

According to the criminalistic report, the officers discharged twenty-five rounds. Seven wounds were identified on the suspect, six on one bystander, and one on another. Eleven rounds did not hit anyone.

Five training referrals resulted from this case. Training concerns included the force array not being implemented before contacting the individual armed with a knife, tactics not being discussed prior to the approach, officers lacking less-lethal options on scene, struck bystanders, and the A/Sgt not supervising subordinates during response, not advising them to wait for their arrival or directing the officers' response.

During the Command Review, a decision was made to request Mandatory Training for all Lieutenants, Sergeants, and A/Sergeants on adequate response to critical incidents and proper incident management.

The department recommended that four officers who discharged their firearms be terminated.

CPOAB discussed the consideration of utilizing less-lethal options. It also discussed why it took longer for officers to engage the suspect. The board discussed the weapon qualification training required for officers.

The City legal department notified the board that officers subject to disciplinary actions have the right to appeal to the personnel board. The officers involved in this matter exercised that right. The hearing officer recommended overturning the termination of the two officers. The personnel board will make the final determination.

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