



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 # 23-0094971

Incident Summary:

The incident occurred on November 25, 2023. The call was made around 1510 hours regarding on-site suspicious activity, where a couple stole from the Kohl's store at 3715 Ellison NW and ran away on foot. The female was detained, and the male, identified as Mr. M, ran on foot, brandishing a firearm.

Officers in the Northwest Area Command were working on Tac Plans near the Cottonwood Mall. A Sergeant was positioned at the Fire Exit when Mr. M and an unidentified female exited. Officers were able to challenge the female, who was eventually detained and cuffed, while Mr. M fled the area on foot.

During the foot chase, Mr. M brandished a pistol and ran from the officers. Mr. M ran towards the Cold Stone Ice cream shop and entered the business, still armed with the pistol. Officers entered the Cold Stone and noted that Mr. M made his way towards the back door and exited the business still armed.

Additional officers working in an undercover capacity arrived on scene. Mr. M continued to run northbound across Alameda Blvd near the intersection of Ellison Dr. Mr. M then stopped running after he was in the parking lot on the Northwest corner of Alameda and Ellison. Officers then utilized the undercover vehicles as cover and concealment. A force array was put in place from lethal coverage to less-lethal coverage.

Mr. M was still armed with a handgun while commands were being given to him to drop the gun by multiple officers. Mr. M, at one point, was observed to go down on his knees and had the gun pointed at his head. He eventually stood back up to his feet and transitioned the firearm from his right hand to his left hand. At that moment, an officer who was standing closer to Mr. M deployed his 40mm, and a detective fired his rifle simultaneously from approximately 50 feet away.

Officers attempted first aid on Mr. M until Rescue arrived. Rescue personnel opted not to transport or continue any lifesaving measures as he was deceased on scene. No officers were injured or sustained injury.

Case Review:

Computer-Aided Dispatch Reports
APD Field Reports

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

Use of Force Types and Involved Officers:

- UOF 1 Level (3) OIS: Rifle x1 Officer (1)
- UOF 2 Level (2) 40mm x1 Officer (2)
- SOF 1 Level (1) SOF: Rifle Pointing Officer (1)
- SOF 2 Level (1) SOF: 40mm Pointing x4 Officer (2)
- SOF 3 Level (1) SOF: Handgun Pointing x7 Officer (3)
- SOF 4 Level (1) SOF: Handgun Pointing x3 Officer (4)
- SOF 5 Level (1) SOF: Handgun Pointing x3 Officer (5)
- SOF 6 Level (1) SOF: Handgun Pointing x2 Officer (6)
- SOF 7 Level (1) SOF: Rifle Pointing x2 Officer (6)
- SOF 8 Level (1) SOF: Handgun Pointing x3 Officer (7)

Policy Consideration and Outcome:

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

2-54-4-B-4: Intermediate Weapon System General Requirements

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.

2-53-3-MM: Show of Force

MM. 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.

2-54-9-A-3: 40-millimeter Impact Launcher Use Guidelines

3. An officer may deploy their 40-millimeter impact launcher when such force is reasonable and necessary to control an actively-resistant individual or to protect the officer or another person from an imminent threat.

2-52-6-B-1-c: Deadly Force

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 physical injury to Department personnel or another person.

Mr. M fled from officers after committing felony shoplifting. As he ran across the parking lot away from officers, he pulled out a firearm. He escaped through Cold Stone, exited the building, and ran across Alameda Blvd while holding the firearm. He did not stop after officers gave him lawful commands, nor did he drop the firearm. Mr. M held the firearm to his head, refused to put it down, and did not surrender. All use and shows of force were within policy; however, the detective who deployed his rifle, believing that Mr. M posed a deadly threat, was deemed out of policy by the IAFD.

IAFD determined that the Use of Force was not necessary based on the totality of circumstances. This conclusion was based on multiple on-scene failures by supervisors, including poor command and control, inadequate communication, and failure to see the value of continued de-escalation. These issues led to a need to use force instead of attempting to reduce it.

The use of force was found not to be in accordance with APD policy by IAFD.

Findings:

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

Additional Policy and Training Considerations:

Several tactical, supervision, procedural and other training concerns were raised during the force investigation and were appropriately addressed by the department.

Eleven training referrals were generated as a result of this incident.

No additional recommendations were proposed.

The Civilian Police Oversight Advisory Board reviewed this case at its February 13, 2025 meeting. The Board's discussion can be found in the February minutes here: cabq.gov/cpoa