



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 # 24-0026315

Incident Summary:

The incident occurred on March 30, 2024. Officers were dispatched to a residence regarding a disturbance call. Computer Aided Dispatch (CAD) indicated that a male had arrived at the residence demanding his belongings. Comments on CAD also noted that the male was involved in a domestic dispute with the caller and their daughter the day before, during which he fired multiple gunshots in an unknown direction. Multiple officers were dispatched, with a few self-dispatching to the call. They gathered at a gas station near the residence to plan their approach, where the caller also met them. An arrest warrant was submitted prior to the officers' meeting.

A total of six officers arrived at the scene. Acting Sergeant W did not come to the location; therefore, Officer C assumed leadership and instructed the other officers to approach the residence before the suspects could depart, which was situated a few blocks away from the gas station. Upon Officer C's arrival, he inadvertently activated the siren and lights, alerting the individuals present. Two individuals were observed running towards their vehicle, parked in front of the house; one entered the rear driver-side passenger door, while the other circumvented the parked vehicle to reach the front passenger door. Officer C exited his patrol vehicle with his rifle drawn and aimed it at the individuals fleeing towards their vehicle, who had their backs turned to the officers, and issued verbal commands to the suspects, "Get on the fucking ground." During this period, Officer A, who was trailing Officer C's vehicle as they approached the incident site, had his rifle aimed at the suspects through the windshield while seated on the driver's side of his patrol vehicle. As the suspects entered their vehicle and attempted to evade capture, Officer A began firing his rifle through the windshield, discharging a total of seven rounds. The suspects, consisting of four occupants, began to drive away from the officers. Concurrently, as the suspect vehicle was in flight, Officer C, who was stationed outside the driver-side door of his patrol vehicle, discharged one round. Officer A promptly initiated a vehicular pursuit, subsequently joined by other officers.

The events unfolded rapidly as other officers arrived on the scene, including Acting Sergeant A, while shots were fired by Officer A. Several officers aimed their firearms at the suspect vehicle as it fled. One officer was assigned to deploy stop sticks at the end of the street toward which the suspect's vehicle was heading. As the officer heard gunshots, the engine revving, and the vehicle approaching his position, he unholstered and aimed his firearm at the vehicle as the suspect vehicle drove past him.

The suspects abandoned the vehicle near West Bluff Park and fled on foot. One suspect was apprehended during the area search, while the other three escaped capture. The primary suspect was later arrested on April 25, 2024.

Case Review:

Computer-Aided Dispatch Reports
APD Field Reports
Internal Affairs Reports
On-Body Recording Device Videos
APD policies regarding force
IAFD force investigation
IAPS misconduct investigation

Use of Force Types and Involved Officers:

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

- Witness Officer: Acting Sergeant (8)
- Witness Officer (9)
- Witness Officer (10)

Policy Consideration and Outcome:

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

SOP 2-53-3 Definitions

W. Levels of Force

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:

a. Use of deadly force;

2-52 Use of Force: General

2-52-6 Prohibited Uses of Force

B. Deadly Force

1. Department personnel shall not use deadly force:

c. Against an individual unless the officer had an objectively reasonable belief that an individual poses a threat of death or serious physical injury to Department personnel or another person.

2-52 Use of Force: General

2-52-6 Prohibited Uses of Force

B. Deadly Force

1. Department personnel shall not use deadly force:

d. Against an individual who is fleeing or attempting to escape unless:

iii. The officer has identified themselves as law enforcement officer, has stated the intention to use deadly force, and has given the individual a reasonable opportunity to comply with lawful orders and directions, if time, safety, and the totality of the circumstances permit.

2-52 Use of Force: General

2-52-6 Prohibited Uses of Force

C. Deadly Force and Moving Motor Vehicles

2. Department personnel shall not discharge a firearm at or from a moving vehicle, unless an occupant of the vehicle the officer is engaging is using deadly force, other than the vehicle itself, against the officer, or another person.

The use of deadly force by two officers (Officers 1 and 2) who discharged their firearms during this incident was determined not to be reasonable, minimal, or necessary during the IAFD investigation. The two officers fired a total of 8 rounds towards the car with 4 occupants, who were rapidly fleeing. The individual(s) did not point any weapon or firearm toward the officers. Both of the involved officers who used deadly force were recommended for termination from the department.

The uses of force were found not within APD policy by IAFD.

2-53 Use of Force: Definitions

2-53-3 Definitions

W. Levels of Force

1. Level 1 Use of Force: Any use of force that is likely to cause only temporary pain, disorientation, and/or discomfort during its application as a means of gaining compliance; or any Show of Force.

2-53 Use of Force: Definitions

2-53-3 Definitions

Q. Imminent Threat

A dangerous or threatening situation which is about to occur or take place and is perceived to be unfolding.

2-53 Use of Force: Definitions

2-53-3 Definitions

MM. Show of Force

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.

Multiple officers drew their firearms and were investigated for their show of force. The initial plan was to conduct a high-risk stop on the individual whom officers believed had fired multiple gunshots the day before during a domestic dispute with his girlfriend.

The shows of force were found to be within APD policy by IAFD.

Findings:

The CPOA and CPOAB agreed with APD's determination that the uses of force by Officer 1 and 2 were **not within policy**, and the shows of force by all involved officers were **within policy**.

Additional Policy and Training Considerations:

Potential policy violations and training considerations were identified for multiple officers during the IAFD investigation:

- Delayed warrant/protecting victim
- Tact-load
- Force array planning/not providing time for proper planning
- Driving with rifle in hand/muzzle getting tangled in radio wire
- Utilizing cover as time permits
- Taking focus off primary lethal coverage to voice information over the air
- Delayed perimeter/clear communications
- Rifle pointed out of the windshield while driving
- Driving with handgun in hand and self-covering
- Communication by radio
- Allowing recruit officers to perform directed tasks
- The recruit officer was not effective in pursuit due to slow driving
- Self-covering with rifle
- Self-covering with handgun
- Failed to place vehicle in park
- Communication/supervision/perimeter

The Internal Affairs investigation into these issues appeared to address these concerns appropriately.

No additional recommendations were proposed.

The Civilian Police Oversight Advisory Board reviewed this case at its November 14th, 2024 meeting. The Board's discussion can be found in the November minutes here: cabq.gov/cpoa