

# CITY OF ALBUQUERQUE

Albuquerque Police Department



Gorden E. Eden, Jr., Chief of Police

November 9, 2017



Edward Harness, Esq., Executive Director  
Civilian Police Oversight Agency  
600 2<sup>nd</sup> St. NW #813  
Albuquerque, NM 87102

11-13-17P05:41 RCVD

Re: I-22-17

Dear Director Harness:

This letter constitutes my response to your correspondence to me dated September 21, 2017. You did not concur with the findings of Internal Affairs in reference to I-22-17. At the time of your letter the case had not yet been through the required chain of command review. I have since received the case and the chain of command review. I concur with all the findings of Internal Affairs. My decision is based upon standard operating procedures in place at the time of this incident. My findings are as follows:

400 Roma NW

SOP SECTION 2-52-3(A) General Requirements and Expectations of all Officers with Regard to Uses of Force:

Albuquerque

SOP SECTION 2-52-3(C) General Requirements and Expectations of all Officers with Regard to Uses of Force:

New Mexico 87102

SOP SECTION 2-52-4(A) Deadly Force:

www.cabq.gov

There is no evidence to indicate Detective Montoya violated standard operating procedure in place at the time of this incident. The use of force was within department policy and objectively reasonable. The investigation found that Detective Montoya believed Mr. Gabaldon presented an immediate threat of injury or death. It further showed Detective Montoya had no opportunity move from the path of Mr. Gabaldon's oncoming vehicle.

I also find Detective Sanchez did follow all Department SOP in place at the time of the incident. Detective Sanchez believed Mr. Gabaldon presented an immediate threat of injury or death. Detective Sanchez had probable cause to believe Mr. Gabaldon had just committed a violent crime and presented an ongoing threat to officers and citizens in the area if not captured.

SOP SECTION 2-54-4E Deadly Force and Motor Vehicles:

Detective Montoya had no opportunity to remove himself from the path of the oncoming vehicle. Detective Montoya also had no tactically safe position to place himself based on the actions of Mr. Gabaldon. Investigation showed there were no other reasonable or safe causes of action Detective Montoya could have taken to possibly prevent having to use deadly force.

SOP SECTION 2-52-6(D) Use of Authorized Tools/Force Options:

Detective Montoya did follow the standard operating procedures in place at the time of this incident. The empty hand techniques used by Detective Montoya represented the minimum amount of force needed to overcome the resistance presented by Mr. Gabaldon. The investigation also examined post deployment considerations and found Detective Montoya did take his body weight off the suspect once he complied.

Detective Sanchez did follow the SOP in place at the time of this incident. The tool used by Detective Sanchez (his vehicle) was appropriate given the totality of circumstances (deadly force incident). Although this specific technique is not a trained force option, Detective Sanchez was objectively reasonable in believing this suspect required apprehension by any means necessary.

SOP SECTION 2-52-6(G) Use of Authorized Tools/Force Options (ECW):

Detective Montoya used his electronic control device in drive stun mode approximately four times during the arrest of Mr. Gabaldon. Both the use of the ECW in this mode, and the target location were permitted by standard operating procedure at the time of this incident.

Standard Operating Procedures have changed since the time of this incident and updated training has been provided department wide.

Sincerely,



GORDEN E. EDEN, JR.  
Chief of Police