

**CIVILIAN POLICE OVERSIGHT AGENCY**

**Civilian Police Oversight Agency Board**

*Patricia J. French, Chair*                      *Jesse Crawford, Vice-Chair*

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Diane McDermott, Interim Executive Director

May 19, 2022

Harold Medina, Chief of Police  
C/O Internal Affairs Unit  
Albuquerque Police Department  
400 Roma NW  
Albuquerque, NM 87102

**RE: APD Case # 21-0078682, IAFD Case # F2021-00608**

Dear Chief Medina:

The Interim Executive Director's review of this case included:

- Computer Aided Dispatch Reports
- Field reports
- Criminalistics Reports
  - Crime scene photos
- Use of Force Narratives
  - Officer Interviews
- Internal Affairs Force Division Reports
  - Supervisor Review
  - Command Review
- On Body Recording Device Videos
- Misconduct investigation
- APD Policy 2-52 Use of Force
- Attending the Force Review Board Briefing 1/27/22
  - Power Point Presentation

On October 3, 2021, Officers 1 and 3 were dispatched to an intersection at Coors Blvd Bypass and Ellison for an individual huffing computer duster while walking in lanes of traffic. Officer 1 contacted Mr. S while Mr. S was walking in traffic and screaming. Mr. S would not comply with orders such as stop or get on the ground and instead ran into traffic on Coors multiple times.

Types of Force analyzed:

Show of Force (ECW)

Upon arrival Officer 2 observed Mr. S running at Officer 1. Officer 2 had his ECW and pointed it at Mr. S. However, he did not use the ECW over the concern of a fire hazard due to the canned air.

The show of force by Officer 2 was within policy (however potentially an issue of not reporting it, see misconduct investigation)

Level 2 takedown (leg sweep)

Officer 1 grabbed both of Mr. S' shoulders and used his foot to kick Mr. S' leg out from under him in order to get Mr. S into custody. Officer 1 and Mr. S fell to the ground.

The use of force by Officer 1 was within policy

Level 1 resisted handcuffing

Officers 1 and 2 tried to handcuff Mr. S by pulling on his arms. Officer 1 cautioned Mr. S he would be tased if he did not comply. Mr. S tried to bite Officer 1. Officer 1 told Mr. S to stop biting. Mr. S then stopped resisting, but officers waited for more backup before trying to handcuff him to avoid further physical fighting.

The use of force by Officers 1 and 2 was within policy.

Low level control tactics were used to get Mr. S into handcuffs and escort him to the police vehicle. At the police vehicle, Mr. S started to kick. The decision was to place Mr. S in a PRS. In order to do so he had to be on the ground. Orders were given for several minutes.

level 3 takedown (handcuffed subject)

Lt. 1, Officer 3, Officer 2, and Officer 1 all grabbed various positions on Mr. S and lowered him to the ground.

The uses of force by Officers 1-3 and Lt. 1 were within policy.

Level 1 resisted handcuffing 2<sup>nd</sup> incident

Officers held Mr. S, but Mr. S pulled away from Officers 1 and 3 while trying to kick. Officers 1 and 3 pulled and struggled against Mr. S.

The uses of force by Officer 1 and 3 were within policy

The specific policies identified in the investigation regarding the use of force were

2-52-6-A-6: Leg Sweep Takedown; P.R.S.

The use of leg sweeps, arm-bar takedowns, or a passive restraint system (P.R.S) shall only be considered and used in the following circumstances: a. To prevent imminent bodily harm to the officer or to another person or persons; or  
b. To overcome active resistance.

**2-52-4-F-1: Lawful Objective**

1. Officers shall only use force to achieve a lawful objective. Officers are authorized to use force:

- a. To effect a lawful arrest or detention of a person;
- e. To defend an officer or person from the physical acts of another

**2-52-5-C: Use of Force Prohibitions**

C. Officers shall not use force against a restrained or handcuffed individual unless the force is necessary:

- 1. To prevent imminent bodily harm to the officer or another person or persons;
- 2. To overcome active resistance

**2-54-B-1: ECW Use**

An officer shall issue a verbal warning to an individual, and allow that person a reasonable time to comply with the warning prior to deploying 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!"

The potential misconduct involved 2-52-6A8 where Officer 2 allegedly did not document that he had a show of force with his ECW. An Internal Affairs referral was created for investigation.

Post use of force action:

Rescue was called to check Mr. S, but he refused. Mr. S started banging his head inside the patrol car. He also was spitting at officers. Officer 3 and Sgt. 1 put a protective helmet and spit sock on him.

The Civilian Police Oversight Board reviewed the case at their May 19, 2022 meeting. The Board did not make any additional recommendations or considerations. The Board voted to approve the findings of the Interim Executive Director and the FRB.

Sincerely,



Diane McDermott  
Interim Executive Director  
Civilian Police Oversight Agency  
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