

Albuquerque Police Department's

# January – June 2024 OIS Review

Albuquerque Police Department

Between January 1, 2024 – June 30, 2024, the Albuquerque Police Department (“APD”) experienced eight (8) officer involved shootings (“OIS”). An OIS is an undesired result for APD as APD strives to avoid using deadly force in favor of de-escalation or less lethal force options; however, de-escalation or less lethal options are not always practical or successful. Additionally, an OIS also represents a circumstance where APD officers or members of the public were placed in a life-threatening situation. Given the high number of shootings in 2022, APD determined it would convene an executive working group to review the OIS and prepare findings and recommendations. Although the number of OIS was reduced in 2023, APD remains dedicated to conducting these reviews on a semi-annual basis. It is essential to note the lens used by the working group and how the group compliments other types of oversight for using force.

### **APD Policy**

An OIS is considered the use of deadly force under APD’s use of force policy regardless, of whether the individual is killed, or even struck, by law enforcement. APD’s deadly force policy provides: “department personnel shall not use deadly force 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” (Policy 2-52). In addition, APD officers must attempt to use de-escalation, when feasible, prior to using deadly force and the use of deadly force must be the minimum force necessary under the circumstances.

Although APD’s policy imposes greater restriction on an officer’s use of force than the minimum amount required by the Fourth Amendment to the United States Constitution, APD’s policy is based upon the objective reasonableness framework articulated by the United States Supreme Court in Graham v. Connor, 490 U.S. 286 (1989). “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” Graham, 490 U.S. at 396. “Not every push or shove, even if it may later seem unnecessary in the peace of a judge’s chambers,” [] violates the Fourth Amendment. Id. (citation omitted). “The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” Id., at 396-397. The Graham standard considers the totality of circumstances of a use of force encounter.

### **Other Types of Review**

Pursuant to APD policy and consistent with the Court-Approved Settlement Agreement (“CASA”) with the United States Department of Justice (“DOJ”), every officer-involved shooting is investigated by the Internal Affairs Force Division (“IAFD”). Through the end of 2023, the External Force Investigation Team (“EFIT”) supports ungraduated IAFD personnel in completing timely and quality use of force investigations. The requirements of the substance and quality of completed IAFD investigations as well as training and procedure for IAFD investigations are outlined in Paragraphs 60-77 of the CASA.

All completed OIS investigations are presented to the Force Review Board (“FRB”). The purpose of the FRB is described by Paragraph 78 of the CASA. The FRB discusses each case and



assesses the incidents for policy, training, equipment, or tactical concerns. In addition, on a quarterly basis, the FRB is presented with use of force data to identify significant trends and correct any deficiencies Data Analytics Division reveals.

The Multi-Agency Task Force described in the CASA is tasked with conducting criminal investigations into all OIS and other instances of potential criminal conduct by APD officers.

Finally, the City has multiple methods for addressing civilian complaints against police, including the excessive use of deadly force. The Civilian Police Oversight Agency has the authority to investigate civilian complaints against police officers. The procedure for civilian complaints is described in the CASA.

Under the CASA, the Independent Monitoring Team ("IMT") headed by Dr. James Ginger assesses the status of APD's compliance with the paragraphs referenced above. Additionally, the CASA (Paragraphs 14-16) contains general requirements regarding all types of use of force. These paragraphs have been found operationally compliant by Dr. Ginger and are currently self-monitored by APD.

### **Review by Working Group**

The working group consists of a cross-section of reviewers. This group included four deputy chiefs, one legal advisor, and one external contractor who specializes in uses of force. APD hired the contractor who retired with 31 years of law enforcement experience and expertise to provide additional insight from an external, professional perspective in the OIS review process. The working group reviewing 2024 data included individuals who have previously served on this working group.

The purpose of this working group is not to duplicate the efforts by the various types of oversight currently existing for OIS, but to approach the seven OIS in a different light. The group did not re-examine whether the shootings were within APD's policy or the quality of the investigations. Even if every OIS was within policy, one of the purposes of this working group was to explore whether there are methods to reduce the overall number of OIS. In conducting this analysis, the working group explicitly applied the "20/20 vision of hindsight", using information gathered after the shooting as well as information on other OIS to assess these incidents. The working group's findings do not address whether the officer's actions were objectively reasonable. Further to the extent the working group identified similarities between OIS, these are insufficient to evidence a pattern of conduct. When reviewing the OIS, the working group gave special consideration to whether de-escalation was used and whether using a less lethal tool earlier in the encounter might have avoided the need for deadly force. To be clear, a determination that officers may have missed an opportunity for less-lethal force does not indicate that less-lethal force rather than deadly force should have been used at the time of the shooting, but that less-lethal force *might* have brought the incident to a resolution before the need for deadly force arose. Further, the working group also considered other measures that *might* have avoided the need for a deadly force. Again, these considerations do not follow the legal standard set forth regarding use of deadly force and and/or the duty to properly train and supervise officers. Finally, the summary of facts is based upon the working group's initial review which may be different than the facts definitively

determined by IAFD's investigation as the working group conducted its review of OIS prior to the completion of the IAFD investigation.

### **Discussion of Individual OIS in chronological order**

#### *1. Case # Case #24-0006800*

Officers were dispatched to the Love's Truck Stop located at 2200 6th St. NW in reference to a male individual who had damaged windows on the business and was waving a gun. The suspect also attempted to carjack several vehicles using a firearm. Officers responded to the scene and upon arriving, heard gunfire. Responding officers believed the gunfire was coming from the suspect shooting at security personnel. It was learned after the incident that the gunfire heard by responding officers was actually from security personnel, not the suspect. Officers eventually made contact with the armed male suspect who ignored commands to drop the firearm and then pointed his firearm at officers. One officer shot the suspect, who later passed away from his injuries.

#### *Items for Consideration:*

The original call was not voiced as a call involving a mentally ill individual. Further, there was not an opportunity for the use of less lethal munitions earlier in the incident.

#### *2. Case # 24-0009062*

On February 1, 2024, at approximately 1439 hours, Northwest officers were dispatched to 4816 McMahon Blvd. NW # J/80 in reference to suicidal and potentially intoxicated individual. Officers were able to establish communication with the individual over the phone. The individual indicated that although he wanted help, he had weapons in his apartment and would shoot officers if they approached him. Multiple officers arrived on scene while a supervisor spoke with the individual on the telephone. Officers were unsure of the individual's exact location, whether he was inside his apartment or in a vehicle. At one point during the supervisor's discussion with the individual, the individual stated that he was able to see officers and to take aim at them.

Eventually officers were able to locate the individual in a vehicle in the parking lot of the apartment complex. Officers observed the individual pointing a firearm in their direction and two officers fired at the individual. After the officers fired at the individual, the individual shot himself and ultimately succumbed to his injuries.

#### *Items for Consideration:*

The IAFD investigation made several referrals for training and supervision. The working group determined that de-escalation was utilized in this case, although it was ultimately unsuccessful. The working group also determined there was not an opportunity for less-lethal force earlier in the incident. Additionally, the working group identified several officer safety concerns regarding how officers positioned themselves during this incident. It was discussed officer safety is continually trained in ongoing reality-based training.



### *Case # 24-0023118*

On March 19 2024, Foothills Area Command Officers located a stolen vehicle in the area of Eubank/Candelaria NE. Officers contacted the occupants of the vehicle. A female driver fled on foot while the passenger was taken into custody. Responding Officers located the suspect in the area of Betts Dr NE/Mesa Arriba Ave NE. The female suspect was seen on the roof of a residence. A perimeter was set around the suspect in the neighborhood. Tactical K9 Officers responded and attempted to make contact with the female suspect on the roof. The female suspect got off the roof and concealed herself in the backyard of 10213 Mesa Arriba Ave NE. K9 warning announcements were given and a search utilizing a Police Service Dog ("PSD") was conducted on the backyard. The PSD indicated that someone was inside an unlocked shed in the backyard. Officers remained in the backyard and gave the suspect commands.

The female exited the shed with a dark object in her hands. She extended both arms with the object held in both hands in a manner consistent with pointing a firearm at officers. One officer fired at the suspect, who later died of her injuries.

#### *Items for Consideration:*

It was determined that de-escalation was not an option in this case and that there was not a missed opportunity for less-lethal force earlier in the incident. The item in the suspect's hand was later determined to be a cell-phone. Because officers must respond in circumstances that are tense, uncertain, and rapidly evolving, the determination that the item in the suspect's hand was not a firearm does not demonstrate the shooting violated APD's policy or applicable law. In response to this incident, APD has established a position dedicated to relaying information seen from available drone footage to officers on scene in order to optimize available resources and give officers on scene the best available information.

### *3. Case #24-0026315*

On March 30, 2024 at approximately 6:00 p.m., a call for service was received from 717 59th St. NW in reference to a male individual who had arrived at the aforementioned address and was attempting to collect his belongings. This individual had an outstanding warrant based upon his actions the day prior when the individual had come to the residence where his ex-girlfriend lived. The male had fired a weapon at his ex-girlfriend who was holding their two-year old daughter.

At the time of the March 30th 911 call, the individual was yelling at the front door of his ex-girlfriend's residence and officers were provided information that he was armed with an automatic rifle. As officers approached the residence, the suspect and his three companions ignored officers' commands and entered a vehicle. As the suspect entered the vehicle, one officer perceived that the suspect pointed a firearm at an officer and shot several rounds at the suspect. As the vehicle drove away, another officer perceived an individual inside the vehicle was pointing a firearm at the officers and fired a round at the suspects. Eventually the vehicle was stopped and several firearms were located inside the vehicle. Although he originally fled, it was determined that the suspect had been struck in the foot by officers' rounds.

*Items for Consideration:*

The working group first discussed whether APD's policy prohibiting the use of deadly force at or from a moving vehicle was implicated by this shooting. The working group determined officers perceived a deadly threat other than the vehicle itself, this policy was not violated solely because the suspect was inside a moving motor vehicle. The working group also discussed concerns regarding supervision in this incident, because an apprehension plan was initiated before the acting supervisor arrived on scene. An IAFD investigation ultimately determined these officers' use of force violated APD's policy.

*4. Case #24-0029624*

On April 11, 2024, at approximately 11:41 a.m., detectives from the Albuquerque Police Department's Gun Violence Suppression Unit (GVSU) and the Armed Robbery Unit located an armed robbery suspect at the Walmart at 2266 Wyoming Blvd NE. The female suspect had active felony warrants while her male companion had a misdemeanor warrant. Detectives were able to contact and arrest the female suspect in the parking lot of the Walmart while the male suspect was still inside the Walmart store. As the male exited the store, detectives moved forward to take him in custody. The male immediately became physically combative with detectives. During the struggle, the male suspect grabbed a detective's rifle, disengaged the safety, and began discharging rounds in the direction of other officers and the public. In order to stop his actions, one officer applied less-lethal force, which was ineffective, and two officers fired at the suspect. The male suspect ultimately died of his injuries.

*Items for Consideration:*

It should be noted that during the investigation of this incident, review of body camera footage captured officers engaging in a discussion that does not reflect the values of the department. This was referred for investigation and officers were disciplined in accordance with APD's disciplinary matrix.

In regards to the shooting itself, the working group noted there was no opportunity for de-escalation given the circumstances and there was not an opportunity to use less-lethal force prior to the shooting. However, the working group identified concerns with supervision and planning of the take-down given that the take-down occurred in a busy area.

*5. Case #24-0035405*

On April 30, 2024, an auto theft suspect was observed by detectives to be in possession of a stolen vehicle. Detectives made a plan to apprehend the suspect using a device known as the Grappler, which mechanically disables vehicles. Detectives deployed the Grappler to the suspect's vehicle. Two female occupants exited the vehicle, but the suspect refused. Despite several commands from officers to exit the vehicle, the suspect remained in the vehicle and ultimately discharged a firearm at officers. Several officers returned fire. The suspect was eventually taken into custody.

*Items for Consideration:*



The working group determined there was not an opportunity to de-escalate the situation given the suspect's action. The working group also determined there was no missed opportunity for less-lethal force. The working group discussed the felony stop technique used by detectives and discussed whether this technique could be applied department-wide. This discussion is still under review.

6. Case# 24-0040107

On May 16, 2024, an officer conducting patrol near Mesilla St. NE just north of Central Ave noticed a suspicious individual. As the officer attempted to contact the individual for potential crimes related to narcotics, the individual fled. As he fled, the individual pointed a firearm at the officer, causing the officer to discharge his weapon. Officers ultimately located the suspect and took him into custody without further use of force. The suspect was not struck by the officer's rounds.

*Items for Consideration:*

It was determined there was no opportunity to de-escalate prior to the shooting. Additionally, as the suspect immediately pointed a weapon at the officer, there was not a missed opportunity for less lethal force. The working group felt the officers who ultimately located the suspect did a superb job taking him into custody without any additional use of force.

7. Case # 24-0049691

On June 20, 2024, at about 9:00 a.m., officers from the Southwest area command located a sedan bearing a stolen license plate. The vehicle was driven by a male with a female passenger. Officers attempted a traffic stop on the vehicle with a marked unit, but the vehicle fled. Officers were able to successfully deploy a spike strip in the area of Central and Coors, but the vehicle continued to flee. Air support continued to track the vehicle and observed both individuals getting out of the stolen vehicle and into another vehicle. After this vehicle was disabled by stop sticks, both occupants exited the vehicle and entered a drainage tunnel. As the male suspect entered the tunnel, he told officers he had a firearm. Officers continued to monitor the individuals with the use of drone. Additional resources were also requested from the SWAT team. The drone captured the male suspect exit the tunnel with a firearm pointed at the female, indicating that he was holding the female hostage. Continuing to point the firearm at the female and using the female as cover, the suspect proceeded back to the truck. Upon arriving at the truck, the suspect pushed the female into the vehicle while continuing to point the firearm her. Officers ordered the suspect to drop the weapon. The suspect did not do so and continued to maintain a hold on the female and his firearm. One officer fired at the suspect, who ultimately succumbed to his injuries.

*Items for Consideration:*

It was determined there was no opportunity to de-escalate prior to the shooting. Additionally, there was not a missed opportunity for less lethal force. Less-lethal rounds were deployed but did not result in the suspect dropping the firearm. The working group observed improved communication between the drone operators and officers on scene as a result of changed practices regarding drone communications.

## **Observations regarding OIS**

### *Original Call Type:*

Of the eight OIS in this review, one incident was initiated as a minor offense, three were initiated related to property crimes, and three were in relation to violent offenses. Only one incident began as a behavioral call; in that incident, although officers did fire at the individual, the individual actually took his own life via a firearm.

### *Use of Weapons*

7/8 of OIS involved an individual armed with a firearm; one involved a perceived firearm. In addition, 3/8 of OIS involved individuals who actually deployed their firearms.

### *Identification of Individual Prior to OIS*

APD has various systems for identifying individuals with prior contact with the police, both to identify individuals with mental illness and prior violent encounters with the police. Of course, this information can only be used when officers know the identity of the individual. Out of 7 OIS, officers knew the identity of the individual prior to the shooting in 3 instances.

### *Identification of Individuals in Crisis*

Based upon information available to the working group, none of the individuals involved in an OIS had a history of calls involving mental health. Additionally, the working group determined only one of the calls involved circumstances where the officers did or should have determined the individual was in a crisis state.

### *Compliance with APD policy*

All eight cases have completed the IAFD review process. In one case, the shooting was deemed out of compliance with APD policy.

### *Experienced of Officers-Involved*

60% of the officers involved had between three and eight years of experience. 57% of the officers involved were e-CIT certified.

### *Prior Force*

Three officers involved in this shooting sample had a prior shooting. There was no statistically significant difference in previous out of policy force between officers who used lethal force and officers who did not.

### *Characteristics of Individuals Involved*

7/8 individuals involved in the shooting were male. 4 of the individuals were Hispanic, 3 were White/non-Hispanic, 1 was other Non-Hispanic. Three individuals involved were 18-23 years old, while the remainder ranged from 24-42 years old.

## **New Action Items:**



### *Assessment of Officers After Shooting*

While APD strives to avoid OIS, they cannot be totally eliminated as they occur in response to conduct by suspects that endanger the lives of officers and/or the public. In several shooting reviews, it became apparent that some officers struggled with the decision to fire or experienced adverse effects as a result of being involved in a shooting. While these adverse effects are the consequence of respect for the sanctity of life, APD should work to ensure officers have sufficient time to recover psychologically after an OIS. Current policy allows for an essentially automatic three days of administrative leave, although officers must complete a return to duty fitness assessment. APD should evaluate whether a longer period is appropriate recognizing that not all officers may require a longer period.

### *Increased Officer Survival Training*

Several OIS involved serious officer safety concerns, such as failure to maintain cover, lack of awareness of surroundings, etc. While the working group did determine that any of these officer safety concerns contributed to the shooting itself, these observations highlight the need for ongoing officer survival training.

### *Increased Training of Supervisors for Critical Incidents*

IAFD made referrals based upon inadequate supervision for several of the OIS. Supervisor training should continue to highlight management of critical incidents, including the Seven Critical Tasks.

### **Update for non-completed Prior OIS Review Action Items:**

The working group identified several new action items based upon its review of OIS from the second half of 2023.

### *Policy Regarding Foot Pursuits*

**Update:** APD is currently finalizing its foot pursuit policy. It should be noted that while this was a significant trend in 2023, it was not an issue in the first half of 2024.

### *Uniform/Equipment*

**Update:** This has been addressed

*APD will prioritize in upcoming firearms training that officers will be trained on environmental and situational awareness, decision-making, and threat identification during lethal incidents*

**Update:** This has been implemented in ongoing training.

### *Prioritize command and control training and scenarios for upcoming supervisory training*

The working group continued to note concerns regarding supervisor's command and control over scenes during this review.

**Update:** This has been implemented in ongoing training.

*Evaluate policy for potential revision for lethal weapons deployment*

**Update:** Policy changes were implemented. It should be noted that while it was an issue with 2022, during the first half of 2024, the working group did not identify any potential missed opportunity for less-lethal munitions.

*Evaluate policy for issuance of less-lethal munitions*

**Update:** This is ongoing

*Evaluate policy for potential revision for increased roles of supervisors and Emergency Communications (dispatchers)*

The working group noted multiple officers gave commands in several OIS. This action item will help address this concern by ensuring supervisors and/or dispatchers confirm an officer is specifically assigned to give commands.

**Update:** This is ongoing.

*Increased training on hands-on/empty-handed tactics*

**Update:** This has been incorporated into ongoing training.

## **Conclusion**

This review process has proven beneficial for APD and the community in which it serves. APD intends to continue these reviews on a semi-annual basis moving forward to discuss any future OIS.