



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 # 23-0037214

Incident Summary:

The incident occurred on May 10, 2023. Officers were dispatched to a Shot Spotter activation. Comments on the CAD also mentioned an officer received information from an observer that the alleged offenders of that activation were two juveniles with a long rifle in a silver sedan car. The sergeant arrived at the scene to attempt to locate casings but did not find any. While on the scene, the sergeant heard more shots fired. The sergeant and an officer drove to the area where the shots were heard and observed three individuals. The explanation provided by the officers for driving to the location rather than walking was that the vehicle would provide cover. The officers asked the observed individuals a general question: "Who's shooting?" A female individual concealed her gesture of pointing out a male individual in the process of walking away, who was later identified as Mr. T. Mr. T was clearly the only individual the female was identifying as there was no other person in the vicinity. There was enough reasonable suspicion to detain Mr. T for negligent use of a deadly weapon.

Officers identified themselves to Mr. T and indicated he was not free to leave and being detained. Mr. T started to walk and then ran from the officers. The officers pursued Mr. T on foot. The OBRD showed Mr. T. turned toward the officer, who explained the same and perceived Mr. T's actions as drawing a firearm from his waist area. The officer perceived an immediate threat of harm from Mr. T. In response to Mr. T's actions, the officer fired two rounds. Mr. T continued to flee on foot.

The sergeant was behind the officer in the pursuit and pointed his firearm at Mr. T while perceiving similar actions of pulling a firearm and preparing to shoot. He heard shots fired.

The officer came around the corner, using the building for cover. Mr. T was in a low position. The officer perceived a firearm pointed at him and pulled the trigger. The OBRD picked up a loud bang coming from Mr. T's direction. The officer fired three rounds. The sergeant also perceived shots being fired at them from Mr. T, and the sergeant discharged his weapon four times.

During the investigation, impacts were located in a wall behind the sergeant and the officer, indicating that Mr. T fired rounds in their direction.

Mr. T got up and fled from the alley. The officers stopped firing when Mr. T stopped firing at them.

The investigation determined that discharges 3-10 did not impact Mr. T.

The officers split up to locate Mr. T. The officers lost sight of Mr. T. The officers' intention of splitting up was to box Mr. T in. However, a mandatory training referral was made for the tactics of the two officers splitting up during the foot pursuit due to officer safety concerns.

Another loud bang was heard as officers attempted to locate Mr. T. The officers heard a female scream, and she identified a direction that Mr. T. fled. Additional officers arrived on the scene, and a perimeter was established. A woman identified as Mr. T's mother approached officers and identified that her son was in her apartment with gunshot injuries. An arrest team with SWAT assistance was created, and K9 announcements were made. Mr. T surrendered. IAFD examined the actions of the SWAT arrest team for possible shows of force, but after analysis, it was determined that the actions did not rise to a reportable level of force. IAFD additionally examined the actions by the SWAT arrest team for possible force during handcuffing, but after analysis, determined the actions were low-level control tactics.

Once in custody, Mr. T was medically treated.

Mr. T has been involved in two other force incidents, but the officers had not identified him at that point. Therefore, they could not have known any relevant information from those other encounters.

Case Review:

Computer-Aided Dispatch Reports
APD Field Reports
Internal Affairs Reports
On-Body Recording Device Videos
APD policies regarding force
CPOA Director's attendance at the Force Review Board Briefing 9/14/23
IAPS misconduct investigation

Use of Force Types and Involved Officers:

- UOF1 Level 3 OIS Officer C
- UOF2 Level 3 OIS Officer C
- UOF4 Level 3 OIS Officer C
- UOF5 Level 3 OIS Officer C
- UOF6 Level 3 OIS Officer C
- UOF7 Level 3 OIS Sergeant H
- UOF8 Level 3 OIS Sergeant H
- UOF9 Level 3 OIS Sergeant H
- UOF10 Level 3 OIS Sergeant H

Policy Consideration and Outcome:

The applicable policy for the above-listed uses of force is (uof1-2, 4-10):

2.52.6.B.1.c&d 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. d. Against an individual who is fleeing or attempting to escape unless: i. they have established probable cause to believe that the individual has committed or is in the process of committing a felony involving the infliction or threatened infliction of death or serious physical injury. ii. if permitted to flee or escape, the individual would pose a

significant threat of death or serious physical injury to the officer(s), individual(s), or another person(s) if not apprehended; and iii. The officer has identified themselves as a 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.

Mr. T. was deemed a person of interest, shooting a firearm within city limits. Mr. T disregarded the officers' commands to detain him while attempting to flee from the officers. Mr. T also produced a firearm from his waistband while turning towards officers. During the uses of force numbers 4-10, Mr. T shot at officers while he was positioned in the alleyway.

These uses of force were found within APD policy by IAFD.

- UOF3 Level 1 show of force Sergeant H

The applicable policy for the above-listed show of force is (sof 3):

2.54.4.B.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

Mr. T. was deemed a person of interest, shooting a firearm within city limits. Mr. T disregarded officers' commands to be detained while attempting to flee from officers. Mr. T also produced a firearm from his waistband while turning towards officers.

This show of force was found within APD policy by IAFD.

Findings:

The CPOA and CPOAB agreed with APD's determination that the uses and shows of force are within APD policy.

Additional Policy Considerations:

Potential policy violations were identified and investigated by Internal Affairs Professional Standards:

- One of the backup officers was identified as unprofessional, which was a sustained violation. This involved an ancillary contact, not with the main individual of this case.
- One of the backup officers was identified as failing to activate their OBRD, which was a sustained violation.
- Two different backup officers were investigated for inadvertently having a show of force and not reporting it. However, the investigation determined it was not a violation.

The IAPS 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 April meeting. The Board's discussion can be found in the April minutes of 4/11/24.