



# City of Albuquerque

## Civilian Police Oversight Agency



**Diane McDermott**  
Executive Director

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**To:** Scott Norris, Commander IAFD, APD

**From:** Diane McDermott, Executive Director, CPOA

**Subject:** CPOA/CPOAB Report on Level 3 Use of Force (non-OIS)  
APD Case # 23-0040301

**Incident Summary:**

The incident occurred on May 21, 2023. Officers were initially dispatched to a suicide call threatened by Ms. D to use a knife on herself. Based on the call, the Operator noted it sounded as if Ms. D was in a vehicle when she called. An officer observed a vehicle leaving the scene at a high rate of speed and ran a stop sign. The vehicle slowed down when the officer got behind the driver and pulled over. The officer approached the driver, later identified as Ms. D, who was crying and visibly upset. Ms. D repeatedly told the officer to leave her alone, but based on the available information, it was determined Ms. D was the individual who called the police. An additional officer arrived and tried to talk to Ms. D since she refused to communicate with the first. She continued to demand to be left alone but also made threatening statements of harm to herself. As the conversation continued, she also made threats to kill her father. The officers had probable cause to detain Ms. D due to her statements, and officers needed to intervene to prevent harm. Officers tried to engage her in conversation and expressed they wanted to help her. Officers requested the Mobile Crisis Team, but they were not available. At least one officer present and speaking with her was ECIT trained.

Additional officers arrived and blocked her in with their patrol cars to prevent her from using her vehicle as a weapon. Her father had arrived on the scene because he lived just down the road. Due to her threatening statements toward her father, the officers wanted to prevent her from using the vehicle to run him over. The officers advised Ms. D that she needed to go to the hospital for an evaluation. Ms. D mentioned attacking the officers so they would be forced to kill her.

The supervisor established a force array that consisted of a 40mm, a taser, and lethal force. He also established who would make verbal communication and who would go hands-on when she was out of the vehicle. Ms. D exited the vehicle when plans were being established.

A training referral was established for the sergeant due to becoming directly involved in applications of force rather than being available to assess and direct the actions of the other officers to adjust as the scene changed.

As the call progressed, Ms. D aggressively approached officers by waving her hands and not following commands. She yelled at officers to kill her. Officers grabbed her and forced her into handcuffs. Ms. D actively kicked and kneed officers. The lawful objective shifted from a mental health evaluation to an arrest protecting the officers from further battery.

**Case Review:**

Computer-Aided Dispatch Reports

APD Field Reports

Internal Affairs Force 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 2 Officer B resisted handcuffing with injury
- UOF2 Level 2 Sergeant W resisted handcuffing with injury
- UOF3 Level 2 Officer C resisted handcuffing with injury
- UOF4 Level 2 Officer S resisted handcuffing with injury
- UOF5 Level 3 Officer B empty hand takedown while handcuffed
- UOF7 Level 3 Sergeant W empty hand takedown while handcuffed
- UOF6 Level 3 Officer S empty hand leg sweep while handcuffed
- UOF8 Level 3 Officer C empty hand leg sweep while handcuffed

**Policy Consideration and Outcome:**

The applicable policy for the uses of force (UOF 1-4) is:

*2-52-5-C-3 (a-c) Department personnel shall use leg sweeps or the Department's Passive Restraint System (PRS) only: a. To prevent imminent bodily harm to the officer, individual, or to another person(s); b. To overcome active resistance; or c. Where it is objectively reasonable and necessary to overcome passive resistance.*

Ms. D became actively resistant by pulling away from officers and using her weight to push down in an effort to free herself from their control. The above officers overcame her active resistance by using their hands to gain control of her forcibly. She had some bruising in the same areas where officers grabbed her, resulting in injury.

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

The applicable policy for the uses of force (UOF 5 & 7) is:

*2-52-6-A-4 (a-c) Use force against a restrained or handcuffed individual unless the force is necessary: To prevent the imminent threat of harm to Department personnel, the individual, or another person(s); b. To overcome active resistance; or c. To move an individual who is passively resisting*

Ms. D became actively resistant as officers were handcuffing her. Ms. D began to kick officers in an effort to free herself. An empty hand takedown was used to overcome Ms. D's active resistance and to prevent her from causing bodily harm to officers. She landed on her shoulder during the takedown. A bruise in the same area was reasonably believed to have been caused by the takedown.

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

The applicable policies for the uses of force (UOF 6 & 8) are:

*2-52-5-C-3 (a-c) Department personnel shall use leg sweeps or the Department's Passive Restraint System (PRS) only a. To prevent imminent bodily harm to the officer, individual, or to another person(s); b. To overcome active resistance; or c. Where it is objectively reasonable and necessary to overcome passive resistance.*

*And 2-52-6-A-4 (a-c) Use force against a restrained or handcuffed individual unless the force is necessary: a. To prevent the imminent threat of harm to Department personnel, the individual, or another person(s); b. To overcome active resistance; or c. To move an individual who is passively resisting.*

Ms. D became actively resistant as officers were handcuffing her. Ms. D began to kick officers. Officers used a leg sweep to overcome Ms. D's active resistance. The officers had their legs in front of hers, causing her to trip. She was taken to the ground in order to apply the passive restraint system (PRS) so she could not continue to kick.

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

Low-level control tactics were used to get her into the PRS and headgear to prevent injury to herself or others. She started to slip her handcuffs. A training referral was created for officers because the application of the PRS was incorrect.

After a while, she promised compliance, and the headgear was removed. She was medically evaluated at the scene.

**Findings:**

The CPOA and CPOAB agreed with APD's determination that the force used was within policy.

**Additional Policy Considerations:**

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

- Ms. D alleged during the course of the contact that her buttocks were touched inappropriately by several officers. After an interview with Ms. D and a review of the On Body Recording Devices, which had no break in recording, it was determined no inappropriate touching occurred.
- The sergeant called to take the initial report regarding the inappropriate touching allegation but failed to complete the report within the prescribed timelines by policy, so this was a sustained 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.