

Albuquerque Police Department's

2022 OIS Review

Completed March 2023

Albuquerque Police Department
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In 2022, the Albuquerque Police Department (“APD”) experienced eighteen (18) officer involved shootings (“OIS”). An OIS is an undesired result for APD as APD strives to avoid the use of deadly force in favor of de-escalation or less lethal force options, although 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, APD determined it would convene an executive working group to review the OIS and prepare findings and recommendations. It is important to note the lens used by the working group as well as how the group compliments other types of oversight for use of 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: “an officer shall not use deadly force against an individual unless the officer has probable cause to believe an individual poses a significant threat of death or serious physical injury to the officer or anyone else.” (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”). Currently, the External Force Investigation Team (“EFIT”) supports 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 sent for consideration by the Force Review Board (“FRB”). The purpose of the FRB is described by Paragraph 78 of the CASA. The FRB extensively discusses each case and confirms the investigative findings are supported by evidence,

identifies violations of policy, and assesses the incidents for policy, training, equipment, or tactical concerns. In addition, on an at least quarterly basis, the FRB assess use of force data to identify significant trends and to identify and correct deficiencies revealed by this analysis.

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, which include the excessive use of deadly force. The Civilian Police Oversight Agency has the authority to investigate civilian complaints. 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. Pursuant to the CASA, the IMT and DOJ reviews and approves all policies and training regarding use of force. The IMT monitors APD’s use of deadly force as well as the processes in place to review uses of deadly force. In addition to the monitoring conducted by the IMT, APD provides information directly to the DOJ. Due to the timing of the monitoring periods, not all 2022 OIS have completed each of these processes, although several have.

Review by 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 18 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 findings of the working group do not address whether the officer’s actions were objectively reasonable. Further to the extent the working group identified similarities in OIS, these are not sufficient to evidence a pattern of conduct. When reviewing the OIS, the working group gave special consideration to whether de-escalation was used and where the use of 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.

Discussion of Individual OIS in chronological order

1. Case #22-008291/IAFD 22-000029

On February 1, 2022, APD received a call indicating that the caller had identified his neighbor’s stolen pick-up truck in the area of the Casa Bonita Apartments. While officers were attempting to create a plan to stop the vehicle, the individual drove away. Officers did not initiate a pursuit of the vehicle, but instead the APD helicopter tracked the vehicle’s progress. Officers

providing air support observed the vehicle driving in a reckless manner by driving into oncoming traffic and disregarding a traffic signal despite the fact that no ground units were pursuing the vehicle.

The vehicle eventually stopped at the Court John Motel where the individual exited the vehicle. The individual proceeded to the parking lot of the Motel where he mounted a motorcycle and attempted to start it. At this time, several units arrived in the parking lot of the motel. Several officers were driving marked units and all had their emergency equipment engaged. Officers identified themselves and gave the individual commands to stop. The individual ignored the officers and began to run away from officers. A supervisor warned the individual that if he did not stop he would be tased. The individual then threw his weight against the door of a hotel room in an apparent attempt to break it down and enter the room. One officer approached the individual to prevent him leaving the scene as he was suspected of the theft of the stolen truck as well potentially the attempted theft of the motorcycle. The individual physically resisted the officer's attempts to take him into custody. The individual also began reaching into his waistband area. Officers issued several commands for the individual to stop.

Based upon the individual's failure to comply with commands and his resistance to officer's attempts to take him into custody as well as the individual's attempts to reach into his waistband, an ECW was discharged. At nearly the same time as the ECW deployment, the individual produced a handgun from his waistband area. As officers yelled out "gun", the individual was able to free himself from the officer attempting to take him into custody and began running across the parking lot with the gun in his hand. Officers gave him several commands to drop the gun. However, the individual did not comply. Additionally, the individual was facing towards other officers on scene as well as an individual in the open door of the motel office. Two officers fired their weapons, striking the individual. The individual eventually succumbed to his injuries.

Corrective Action Taken:

Officers were investigated for failure to render medical aid to the individual following the shooting because they did not administer chest compressions.

Items for Consideration:

An officer did attempt to use hands on techniques to take the suspect into custody. However, these attempts were unsuccessful. While it was later discovered the suspect had a firearm, and therefore, hands on techniques should have not been continued, based upon the ineffective nature of initial contact between officers and the suspect, officers should receive additional training to improve their confidence and efficiency in empty-handed tactics.

The working group determined the situation did not allow time for de-escalation. Further, the working group determined there was no missed opportunity for less-lethal force.

2. *Case # 22-0019589/F2022-000087*

On March 14, 2022, an individual began randomly shooting at citizens in a neighborhood, striking two, and fatally injuring one. Officers responded to the scene with information that this

individual was an active shooter. Officers made contact with the individual but he retreated inside his residence.

The individual later exited his residence with firearms in his pockets. The individual placed two firearms on the ground near the front of his residence. Several officers contacted the individual and gave him commands while attempting to maintain cover. The individual at first closed distance towards the officers despite their commands to stop. An officer deployed a bean bag shotgun to stop the individual's progression towards officers. The individual then turned and began moving back towards where he had placed the firearms on the ground. The individual stated he would kill officers. An officer attempted to deploy another bean bag round, however, the weapon malfunctioned. Officers warned him not to pick up the firearms. The individual did not comply and instead reached towards the firearms on the ground. Three officers fired rounds at the individual. The individual was struck and succumbed to his injuries.

Corrective Action:

A training referral was initiated for an officer regarding cross-fire (a consideration of whether other officers are in the path of an officer's firearm).

Items for Consideration:

Through various times during the encounter, officers did attempt de-escalation including using time, cover, and distance. Unfortunately, the officer's attempts to use de-escalation skills were unsuccessful. During the incident, officers did consider using less-lethal force to prevent the individual from entering his residence upon their initial contact. Ultimately officers determined these options were not available under APD's policy. It is unclear whether the individual had firearms on his person prior to entering his residence. If less-lethal had been used, it is possible officers could have prevented the individual from retrieving a firearm inside his residence. Once the individual left his residence, officers did attempt to use less-lethal munitions to take him into custody before he presented a lethal threat. Following the incident, APD took several steps to clarify the circumstances under which less-lethal munitions are permissible under department policy.

3. *Case # 22-0021036/F2022-000096*

On March 19, 2022, officers received a call from an individual who indicated that he had a gun and planned to shoot random citizens then kill himself. Despite dispatch's attempts to de-escalate the situation, the individual insisted he wanted to "kill everybody" and that he himself wanted to die. A witness who was a friend of the individual indicated he believed the individual was armed and the individual acted like he was pointing a firearm at several people. Dispatch relayed this information to responding officers, who included two supervisors with extensive CIT experience and training.

When officers arrived on scene, they originally staged away from the individual. Dispatch provided detailed information on the individual's history to responding officers to use in attempting to de-escalate the situation. Officers received multiple reports indicating an individual was threatening people with a firearm. Officers then made a plan to approach the individual while

behind mobile cover to address his active threats as reported by witnesses. As officers walked towards the individual, they ordered him to drop the object in his hand. The individual turned towards officers and pointed the object at them. Two officers fired at the individual who succumbed to his injuries. The object which witnesses and officers believed to be a firearm was later discovered to be a cell phone.

Corrective Action:

The original investigation initiated a referral for the two supervisors actively participating in the response rather than serving in a supervisor function.

Items for Consideration:

The working group concurred with the finding of the original investigation. The working group also determined officers might have benefitted from magnifier optics which could have possibly allowed officers a better visual of the suspect. The working group further determined there was no opportunity to use de-escalation prior to the OIS based upon the multiple reports that the individual was actively threatening bystanders with a firearm. Further, the working group determined the officers did not miss an opportunity to use less-lethal options prior to the OIS.

4. *Case #22-00023547/F2022-000110*

On March 29, 2022, officers were alerted to an injured security guard at a motel. Upon arrival, they found a male victim who had been shot. As another officer was responding to the area, he observed a male individual force a driver out of a vehicle while pointing an object at the driver. The officer began following the individual. The individual fled the area and led officers on a pursuit. During the pursuit, the individual stopped as though allowing officers to pull him over, then abruptly changed direction and drove directly at officers on two occasions. On the third time the individual brought his vehicle to a stop, he began firing at officers. Officers returned fire. The individual did not sustain any injuries. The male victim at the hotel ultimately died as a result of his injuries and the individual who fired on officers was identified as a suspect in the homicide.

Corrective Action:

The initial investigation identified an issue with tactics as officers attempted to conduct a high-risk traffic stop of the individual. Further, a referral was initiated to concerns with an officer's radio holster which allowed an officer's radio to fall out during the incident.

Items for Consideration:

The working group determined that officers did not miss an opportunity for de-escalation or less-lethal force given the circumstances of this incident.

5. *Case #22-0026100/F2022000128*

On April 6, 2022, officers received a call of an armed carjacking and responded to the scene to make contact with the victim. Shortly after, officers located the vehicle and attempted a traffic stop, but the vehicle fled in a manner that demonstrated disregard for the safety of the public. The individual eventually stopped in a Foothills neighborhood. The individual then exited the stolen

vehicle. Officers identified themselves as law enforcement and ordered the individual to stop. The individual ignored officers' commands. At this time, the officer observed the individual was armed with a handgun. Several other officers arrived on scene.

The individual continued to ignore officers' commands and proceeded to flee the area still armed with the handgun. After numerous orders by law enforcement, the individual turned towards officers and fired several rounds at officers. Three officers returned fire, striking the individual who died from his injuries.

Corrective Action:

No corrective action was generated during the initial review of this OIS.

Items for Consideration:

The working group determined there was no opportunity for de-escalation or the use of less-lethal munitions given the circumstances and the individual's actions.

6. *Case #22-0027782/F2022-000136*

On April 12, 2022, officers identified a vehicle that had been reported stolen in a parking lot of a convenience store. Officers attempted a traffic stop, but the vehicle fled. Officers did not pursue the vehicle, but rather disengaged after attaching a GPS tracker to the vehicle. Officers were provided updates as to the vehicle's location based upon the GPS tracker. Eventually the vehicle came to a stop and allowed the passenger to exit. The driver remained in the vehicle and continued driving.

Eventually the individual stopped in the parking lot of a motel. Detectives arrived at the motel and created a plan to arrest the individual. As the individual returned to the stolen vehicle, detectives identified themselves as law enforcement, and told the individual he was under arrest and not free to leave. The individual ignored officers' commands and proceeded towards the vehicle. As he walked towards the vehicle, the individual continually reached into his pockets despite being ordered to show his hands to officers. The individual also told officers "shoot me" while holding an object in his hand that officers were unable to identify.

As the individual neared the vehicle, the individual made an abrupt movement from his waistband area with an object in his hand while pointing toward the officer. Two officers fired at the individual. The individual was struck by one of the officers' rounds and survived his injuries. The object was later determined to be a key fob to a vehicle.

Corrective Action:

The original investigation determined that the actions of the officer who struck the individual was within APD policy. However, the investigation determined the second officer who fired, whose round did not strike the individual, did not have sufficient information to make a decision regarding deadly force, and therefore violated APD's use of force policy. The officer was terminated.

Items for Consideration:

The working group determined there was no opportunity for de-escalation prior to the OIS based upon the individual's actions. However, the working group determined that the use of less-lethal force to take the individual into custody when the individual first became actively resistant by walking away from officers *might* have prevented the later need to use deadly force.

7. *Case # 22-003316/F2022-0000187*

On May 3, 2022, officers received information that an individual was threatening the resident of an apartment with a chainsaw. The calling party also reported he heard gunshots. The calling party then reported the individuals had gotten into a vehicle and he continued to hear gunshots. Several uniformed officers in fully marked units responded to the scene. As officers attempted to locate the individuals, they were contacted by a female who indicated individuals in a black SUV were driving up and down Central shooting at "random" people. Another individual was identified as shooting in the parking lot of a shop in the area.

Uniformed officers continued to attempt to locate the individuals who were firing rounds. While walking down the street, the officers verbally identified themselves as law enforcement. Officers observed a black SUV driving nearby when an individual inside the SUV fired several rounds. One officer returned fire. The individual who fired at officers fled the scene and was not located.

Corrective Action Taken:

No corrective action was generated during the initial review of this OIS.

Items for Consideration:

The working group determined officers in this shooting might have benefitted from magnifier optics which could have possibly allowed officers a better visual of the suspects. Additionally, the working group determined de-escalation was not practical given the dynamics of the shooting and the distance between officers and the individuals. Further, the use of less-lethal munitions was not appropriate in response to the deadly threat presented towards officers and the public.

8. *22-0046595/F2022-000272*

On June 19, 2022, officers had just cleared a call in downtown Albuquerque and were near their vehicles preparing to respond to the next call for service when an individual in an SUV pulled alongside the officer's patrol vehicle. The individual stopped his vehicle parallel to the officer's unit so that the two were window to window. The individual had his driver's side window down and began speaking to officers through it. The individual mentioned something about a gun at which point officers made attempts to take cover. An officer observed the individual with a black handgun in his right hand. The officer ordered the individual to drop the gun and stated "I don't want to have to shoot you." The individual said no in response to commands to drop the gun. The officer asked the individual, "please put it down" and attempted to establish a rapport with the individual by asking the individual his name. The individual did not provide his name and instead told officers to kill him. The individual then began to lower the barrel of the gun towards officers

at which point three officers fired at the individual. The individual died as a result of his injuries. A black BB pistol was located inside the vehicle.

Corrective Action:

No corrective action was generated during the initial review of this OIS.

Items for Consideration:

The working group determined officers did not have time to use de-escalation in the limited time frame between initial contact and the OIS. The working group determined the officers did not miss a potential opportunity to use less-lethal force.

9. *Case #22-0051363/F2022-000299*

On July 5, 2022, officers, including a sergeant, responded to a call that an individual was parked in a business lot after hours. Officers made contact with the driver of the vehicle who was initially cooperative with officers. Officers ultimately determined that the driver had outstanding felony warrants as well as revoked driver's license. The supervisor approached the driver's side window to take the individual into custody when the driver abruptly produced a firearm and discharged one round. An officer fired one round at the vehicle. The individual was determined to be deceased following the OIS. The subsequent investigation determined the individual had died as a result of a self-inflicted gunshot wound and had not been struck by the officer's round.

Corrective Action:

No corrective action was generated during the initial review of this OIS.

Items for Consideration:

The working group determined there was no opportunity for de-escalation or less-lethal munitions prior to the OIS due to abrupt nature of the individual's actions.

10. *Case #22-0055814/F2022-000329*

On July 21, 2022, officers responded to calls from multiple witnesses that a male and female were involved in an altercation at an apartment complex. A witness reported they heard a gunshot then the female screaming for help. Additional callers also reported gunshots. Several officers, including a supervisor, responded to the apartment complex and began to attempt to locate the offender. Several neighbors reported to officers that the individual had pointed a gun at them. Officers contacted the individual who pointed a firearm at officers, causing officers to take cover. Officers then gave the individual several commands to drop the gun. The individual refused to comply and shook his head, indicating he would not drop the gun. The individual then began to take aim at officer at which point one officer fired at the individual. The individual succumbed to his injuries.

Corrective Action:

During the initial investigation, a training referral was generated based upon the conduct of a Mobile Crisis Team civilian clinician who had contact with the individual prior to the OIS.

Items for Consideration:

The working group determined there was no opportunity for de-escalation or less-lethal munitions prior to the OIS due to abrupt nature of the individual's actions. Although the working group did not identify any policy violations, it observed the dynamic nature of the incident highlighted the need for continual supervisor training on the importance of command and control.

11. Case #22-0064718/F2022-00392

On August 21, 2022, officers were conducting a tac plan in Downtown Albuquerque when they received a call of a fight in progress. As a supervisor arrived on scene in a marked patrol unit, he observed a male with a firearm standing over a female who was laying on the ground. The male shot the female laying on the ground. The individual then fired a round in the direction of officers. The supervisor fired a single round at the male individual. The individual fled the scene, still armed. The female victim died as a result of her injuries. The male individual was not apprehended and did not appear to have been struck by the officer's round.

Corrective Action:

There was no corrective action initiated as a result of the original investigation.

Items for Consideration:

The working group determined there was no opportunity for de-escalation or the use of less-lethal force prior to the OIS as officers observed a homicide in progress and then themselves were fired upon.

12. Case #22-0066755/F2022-000408

On August 28, 2022, officers received a call regarding a suspicious vehicle that had been parked near a gas pump for several hours. Officers arrived on scene and observed a male in the driver seat of vehicle in question. There was also an empty container of alcohol in the vehicle. Officers identified themselves as law enforcement and asked the driver to exit the vehicle. Officers engaged in a conversation with the individual during which the individual indicated that he was intoxicated. Officers then informed the individual that they could not allow him to drive because he was intoxicated, but he was not permitted to remain at the gas station until he became sober. Officers suggested the individual call for a ride.

At this point, the individual requested to re-enter his vehicle to retrieve his cell phone so that he could call for a ride. Officers asked the individual if he had weapons. The individual handed one officer a handgun magazine and indicated he had a weapon in his trunk. The individual then re-entered his vehicle through the driver's door. The individual attempted to shut the door at which point officers ordered him to exit the vehicle. The individual then presented a handgun and pointed it at officers. Three officers fired rounds at the suspect. The individual succumbed to his injuries. A subsequent investigation located the individual's firearm along with an additional magazine inside the individual's vehicle.

Corrective Action:

An investigative referral was generated based upon officers' failure to de-escalate the situation and demonstration of a hostile demeanor towards the individual. An additional referral was made for an improper investigation and the failure to comply with officer-safety training. Finally, a concern was raised that one officer failed to articulate a specific basis for his use of deadly force and evidence indicated the officer would have been unable to see the individual's movement at the time of the shooting. However, subsequent review by the chain of command determined the officer's actions were in policy. This officer was ultimately terminated based upon an unrelated event.

Items for Consideration:

The working group concurred with the previous referrals for failure to de-escalate, proper investigation, and officer-safety procedures. The working group found that although officer safety precautions such as not allowing the individual to re-enter the vehicle were not followed, there was not a specific potential opportunity for less-lethal munitions that was missed.

13. Case #22-00073631/F2022-0000442

On September 21, 2022, officers responded to call of shots fired. Upon arriving in the area, one officer noticed an individual who appeared to be attempting to break into a gas station. When officers attempted to contact the individual, he ignored their commands and also made a motion towards his waist band. The individual then fled on foot. A separate officer located the individual and engaged in a foot pursuit. During the pursuit, the individual threw two large rocks at the officer. The officer had to change his path of travel to avoid them. Immediately after the suspect threw the second rock, the officer fired at the individual. The officer then continued firing rounds as the individual fled. The individual was struck by one of the officer's rounds and sustained non-life-threatening injuries.

Corrective Action:

Although the officer's first use of deadly force was found to be within APD policy, the subsequent rounds fired at the individual as he fled the scene were determined to violate APD policy. The investigation also identified issues in the officer's failure to update dispatch about his location and activities. This officer was terminated.

Items for Consideration:

The working group concurred in the investigative finding that the officer used deadly force in violation of APD's policy. Given the distance between the officer and the suspect during encounter, the use of less-lethal munitions to take the individual into custody does not appear to be practical. The officer did not attempt to de-escalate the situation prior to the OIS.

14. Case #22-0075351/F2022000459

On September 27, 2022, officers responded to a call from a woman indicating that her neighbor had threatened her with a firearm and discharged a round into the air following a dispute about a

parking spot. Once officers arrived on scene, they identified the individual on a second story balcony. Due to the individual's location and the fact he was reportedly armed, officers remained on the ground level behind cover while speaking with the suspect. Officers spoke with the suspect and attempted to de-escalate the situation for over an hour. The individual repeatedly refused to cooperate with officers. During this time, officers spoke with the victim who confirmed the individual had threatened her with a firearm. Further, officers determined the individual had an outstanding felony warrant for aggravated assault.

The individual did not comply with officers' commands to come down the stairs. Instead, he re-entered his apartment and retrieved a firearm. The individual set the firearm on the stairs and told the officers that he was placing it on the ground to show officers it was safe. The individual told officers to come retrieve the firearm and officers explained it was not safe for them to do so. Officers told the individual that he was under arrest for his outstanding warrant and his assault of his neighbor. Although the individual claimed he had a witness that would prove his neighbor was lying, his girlfriend actually told officers that she did not see the interaction. The individual picked up the firearm. Officers gave him multiple commands to drop the weapon. After the individual retrieved the firearm, the supervisor requested additional resources, to include the SWAT team. The individual then switched the firearm from his left hand to his right hand told the officers to shoot him. Officers continued to order the individual to drop the weapon. The individual then pointed the firearm at officers and according to the individual's own testimony, fired a round at officers. One officer fired at the individual, striking him. The individual survived his injuries.

Corrective Action:

The investigation identified an issue for failure to establish a force array when officers first arrived on scene. Officers are required to ensure they have multiple options when approaching an individual to include less-lethal munitions. The supervisor on-scene did not ensure officers established a force array during the initial contact.

Items for Consideration:

The working group determined officers did attempt to de-escalate the situation, speaking to the individual for over an hour. The use of less-lethal munitions prior to the OIS was not practical given the distance as well as the individual's actions.

15. Case #22-0077984/F2022-000473

On October 5, 2022, detectives identified a male suspect who had carjacked a woman at gunpoint. Detectives located and followed the male driving the stolen vehicle to a residence. Detectives then ordered the occupants of the residence outside. Although several individuals came out, one individual did not, despite multiple announcements from law enforcement. This individual discharged a firearm at officers from inside the residence, nearly striking one detective. The detective returned fire, but did not strike the individual. The individual was ultimately taken into custody following deployment of the SWAT team.

Corrective Action:

No corrective action was generated during the initial review of this OIS.

Items for Consideration:

The working group determined there was no opportunity to de-escalate prior to the shooting. Further, there was not a justification for using less-lethal force prior to the shooting. It appears the primary suspect of the investigation was in-custody prior to the OIS. However, detectives intended to search the residence for evidence related to the carjacking and other criminal activity.

16. Case #22-0086452/F2022-000522

On November 5, 2022, officers responded to the scene of a motor vehicle crash. As officers contacted the occupants of the vehicle to determine whether they needed assistance, they noticed the driver of the individual showed signs of intoxication. The driver then presented a firearm. Officers gave the individual multiple commands to drop the weapon and backed away from the vehicle to create space. The individual then pointed the firearm at the officers and discharged a round. Officers returned fire, striking the individual. The individual succumbed to his injuries.

Corrective Action:

A training referral was initiated for one of the officers because he proceeded towards the driver's door after his fellow officer stated the driver had a firearm.

Items for Consideration:

The working group determined there was no opportunity to de-escalate prior to the shooting. Further, there was not a justification for using less-lethal force prior to the shooting.

17. Case #22-0087893/F2022-000527

On November 10, 2022, a supervisor with the Prisoner Transport Unit noticed an individual whom he recognized to be an individual that has been banned from PTC due to prior disruptive conduct. The supervisor was also aware the individual was a suspect in recent felony damage to property. An APD sergeant who was at the PTC came out to assist. Upon conferring, they made the decision to arrest the individual for criminal trespass.

An APD officer asked the individual, who was walking down the street, to stop. The individual refused. The officer then attempted to place his hands on the individual at which time the individual pulled away from the officer and pulled out what appeared to be a bladed object. Officers stepped away and ordered the individual to drop the object or he would be tased. The individual did not comply and instead produced a second object which appeared to be a knife. As other officers arrived on scene, officers repeatedly told the individual he was not free to leave. The individual continually walked away from officers despite their commands and indicated that he was "going to die anyways." Officers also repeatedly told the individual to drop the knife, but he refused to do so.

At one point, the individual lunged towards officers, causing them to take a step back. Officers specifically warned the individual that if he continued towards officers, they would shoot him. The individual dropped one object out of his hands, but retained what appeared to be a knife. Officers explained to the individual that they did not want to hurt him and asked him to drop the knife. The individual made another lunging movement towards officers with what appeared to be a knife in hands. One APD officer and the PTC supervisor deployed their ECWs at the same time while two APD officers discharged their firearms. The individual succumbed to his injuries. The object in his hand was later determined to be nail clippers with the file extended.

Corrective Action:

The initial investigation generated several referrals related to policy and training. The investigator raised a concern that an ECW was not used earlier in the encounter and indicated the ECW policy should be reviewed. There were also training referrals based upon the officers' failure to create distance, seek cover, and properly assembling a force array. There was also a referral based upon lack of supervisor. The use of deadly force was determined to be within APD policy through chain of command review.

Items for Consideration:

The working group identified several concerns in addition to those raised by the original investigation. As discussed further below, APD has already taken actions to clarify the instances in which less-lethal force can be used to include clarification of the definition of active versus passive resistance and application of the totality of circumstances analysis. The working group determined the officers did not engage in de-escalation prior to the OIS. Further, the working group determined the officers missed an opportunity to use an ECW or other less lethal option to potentially take the individual into custody prior to the OIS.

18. Case # 22-0092172/F2022-000559

On November 25, 2022, officers were dispatched to a home where an individual indicated that his stepson was intoxicated and had attacked the caller and his wife with two kitchen knives. The caller and his wife were hiding in their bedroom. The caller reported his stepson did have a history of mental illness and suicidal ideation. The stepson had previously battered his mother.

Officers responded to the scene and made contact with the caller. The caller was able to exit the home, but indicated his wife was still inside. Shortly after arriving, officers observed the individual armed with two knives. A sergeant was en route to the call. Officers attempted to speak to the individual, asking him if he was "ok" and asking him to drop the knives. The individual did not respond and instead exited the residence towards the officers while wielding the two knives over his head. Officers ordered him to drop the knives; the individual did not so, but instead continued towards officers. An officer deployed a less-lethal sponge round to stop the individual, but it was ineffective. The individual proceeded across the yard towards the officers with the knives raised. The officers stepped back from the individual to create distance and to avoid being injured by the knives. However, the individual continued towards officers with the knives raised. Three officers discharged their firearms, striking the individual who succumbed to his injuries.

Corrective Action:

No corrective action was generated as a result of the initial investigation.

Items for Consideration:

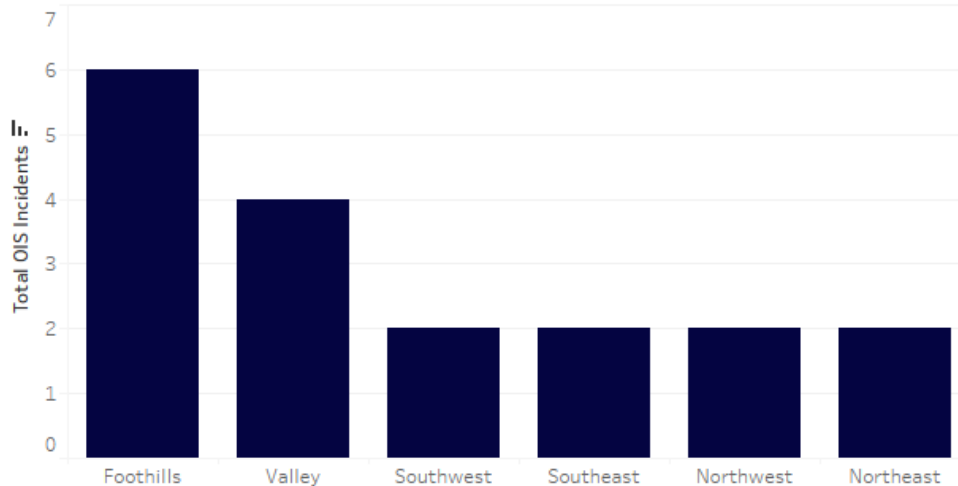
The working group determined officers did attempt to de-escalate the situation by attempting to remove family members from the home and create distance prior to the shooting. Further, officers used less-lethal munitions immediately before the shooting, but these munitions were ineffective in stopping the individual's armed attack on officers.

Observations regarding OIS

Locations of OIS

Six of the 18 OIS were located in the Foothills Area Command, four were in Valley Area Command, and Southwest, Southeast, Northwest, and Northeast Area Commands each had two OIS.

Area Command where OIS Occurred



Use of Weapons

44% (8/18) of OIS involved individuals discharging a firearm at the time of the OIS. During one of these incidents, the individual was actively committing a homicide. In addition, 17% (3/18) of OIS involved an individual pointing a firearm at officers. In one (1) shooting, the suspect was reaching for a firearm after being ordered not to retrieve it. 11% (2/18) of OIS involved suspects with edged weapons. In total, 72% (14/18) of individuals subjected to deadly force were armed or attempting to arm themselves. 17% (3/18) involved the use of perceived weapons which ultimately determined to not be lethal weapons. One individual was armed with a rock which he threw at officers prior to the shooting.

Use of Less-Lethal Munitions

In three OIS, less-lethal munitions were attempted prior to the use of force deadly force. In one OIS, less-lethal was used simultaneously with deadly force. The working group determined three OIS involved situations where the use of less-lethal force earlier in encounter *might* have resolved the situation and thus, avoided the need for deadly force. In making this assessment, it is important to note that the working group cannot predict how the individual would have responded to the use of less-lethal force and it is entirely possible the situation would have still resulted in the use of deadly force.

Use of De-Escalation

De-escalation (defined by APD policy) was used in three (3) shootings. In thirteen (13) OIS, the working group determined de-escalation was not feasible due based on the facts of each case. The working group determined de-escalation should have been used but was not in two OIS. The failure to de-escalate in these OIS was also identified in APD's review processes prior to evaluation by the working group.

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 identify the individual. Out of 18 OIS, officers knew the identity of the individual prior to the shooting in 8 instances (44%).

Identification of Individuals in Crisis

Six of the individuals involved in an OIS had a history of calls involving mental health. However, three of these individuals were not identified by law enforcement prior to the shooting, thus there was no way for officers to know about any CIT history. Of the remaining three individuals who were identified as having a history of CIT calls, e-CIT officers were dispatched to two of these scenes. Regardless of having a known history of CIT, all APD officers are trained to identify individuals who are experiencing behavioral health crises and respond appropriately. Five (5) OIS involved individuals in crisis as perceived by the officers at the time of the shooting. 10 out of 18 OISs had at least one officer who was e-CIT certified who was on-scene and applied lethal force.

Compliance with APD policy

In two of the OIS, at least one officer's use of deadly force was found to violate APD's policy. These two officers were terminated from employment with APD.

Timing of OIS

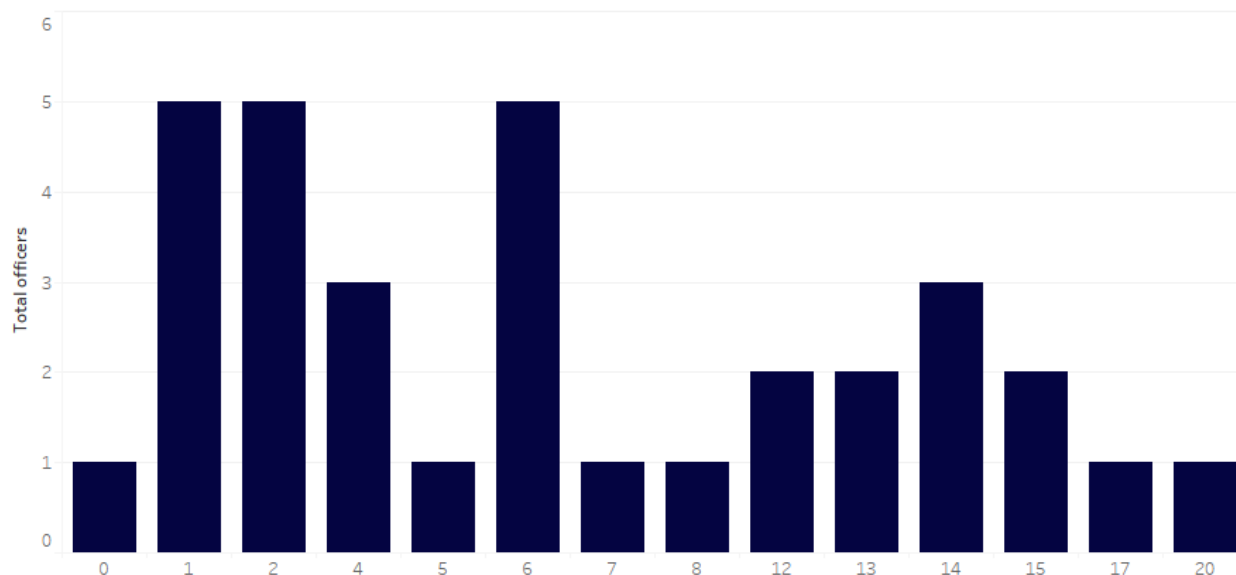
One-third (6 out of 18) of OIS occurred on Tuesdays. The working group considered whether Tuesdays tend to be understaffed and otherwise attempted to evaluate whether staffing levels coincided with OIS. Based upon available data, the working group was unable to determine a link between staffing levels and increased OIS. Ten of the 18 occurred between 10PM and 4AM,

on the Swing or Graveyard shift. Younger officers with less seniority are more likely to work the Swing or Graveyard shift than more experienced officers. The working group discussed mentorship of officers which may be affected by fewer experienced officers on the shift. There were no OIS in January or December 2022.

Experienced of Officers-Involved

Twenty of the officers involved in an OIS had six or less years of experience. This represents nearly 2/3 of officers involved in an OIS in 2022.

Total Years of Experience for Officers Involved in 2022 OIS Incidents



Prior Force

The 33 officers involved in the OIS had a total of 87 prior uses of force since the beginning of 2020. Of these 87 incidents, seven (8%) were out of policy. Four officers involved in an OIS in 2022 had at least one prior OIS. An additional 21 officers at the 2022 OIS incidents applied force that was not deadly force (e.g. pointing a firearm, ECW). These officers had a total of 50 previous uses of force with one (2%) out of policy. The difference between these groups of officers is not statistically significant¹ but APD is aiming to use performance data to be able to identify whether an officer is at higher risk of using force or having disciplinary actions than their peers.

In the latter part of 2022, APD began using an Early Intervention System (addressed by Paragraphs 212-219 of the CASA) which identifies officers with a greater incidence of force or misconduct than their peers. When an officer is identified as being high on force and/or misconduct indicators relative to their peers, the EIS policy requires that a supervisor conducts a performance assessment. The supervisor reviews previous force incidents and misconduct investigations and determines

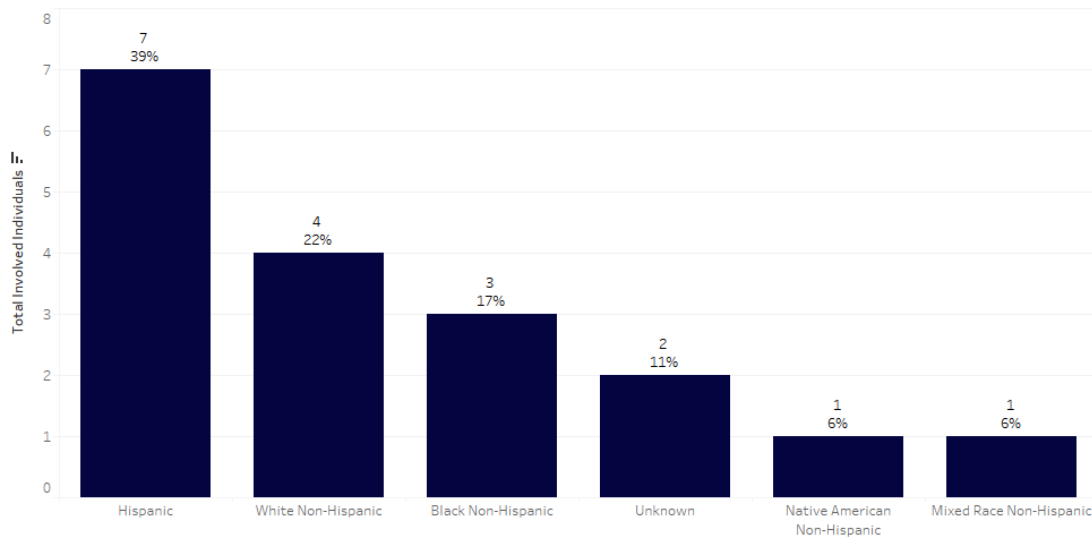
¹ A Fisher exact test used for testing differences in two by two tables with cell values less than 5 had a p-value of .26 meaning that the proportion of out of policy uses of force is independent of whether the officer used lethal force or another type of force in the incident.

whether performance improvements are necessary. One officer involved in an OIS in 2022 had an EIS alert prior to the OIS. The officer was assessed by his supervisor prior to his OIS and the supervisor did not find areas of concern. Four officers involved in shootings in 2022 had at least one prior use of deadly force.

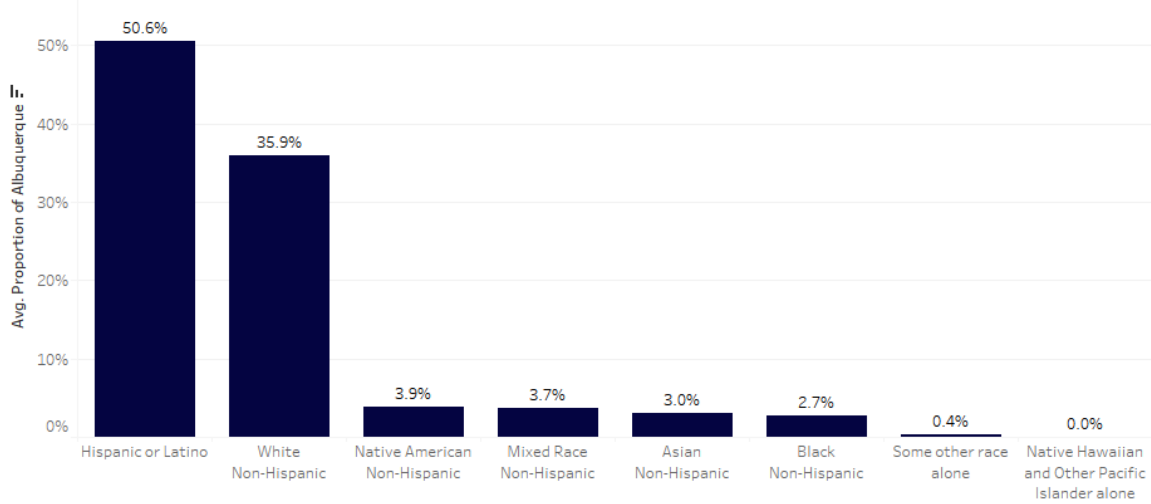
Characteristics of Individuals Involved

All 17 of the known individuals were men. There is one case where the involved individual is unknown. The youngest individual was 18 and the oldest was 59. The median age of involved individuals was 29 and the mean was 34. The percentage of Black and Native American individuals involved in OIS is higher than their population proportion in Albuquerque. The working group discussed these data and reviewed the OIS incidents for disparate treatment. In reviewing the incidents, the working group did not identify any evidence of racial animus. The overrepresentation of racial minorities in use of force is a concern that will require ongoing evaluation. When focusing on OIS, in particular, the low frequency of events makes drawing strong conclusions challenging. APD also sees racial minorities overrepresented in the demographics of both crime victims and crime suspects. These trends go beyond APD to broader social and economic inequalities in Albuquerque that are often identified by researchers as root causes of crime.

Race and Ethnicity of Individuals Involved in 2022 OIS Incidents



Albuquerque Race and Ethnicity, 2021
 American Community Survey, 1-year estimates



Action Items:

Increased training on hands-on/empty-handed tactics

As discussed above, more effective use of hands-on tactics may have allowed officers to bring the situation to a resolution prior to the use of deadly force. APD will consider increased maintenance training for officers regarding hands-on tactics. APD will ensure the training is provided by qualified staff and delivers consistent instruction.

Increased consideration of Less-Lethal Munitions

The working group identified several OIS in which there was potential opportunity for the use of less-lethal munitions prior to the use of deadly force. APD identified an issue with the policy, which has already been addressed in revisions to APD’s use of force policy published in January 2023. These revisions clarify the circumstances under which less-lethal force may be used and standardize the justification for using similar types of less-lethal force. APD has released a brief training video to address these issues as well ahead of planned start date of April 2023 for more in-depth training on the revised policy. Further, APD drafted its upcoming Reality-Based Training scenarios to focus on situations commonly faced by officers as well as issues discussed during the working group. In addition, APD will ensure officers continue to receive training on weapons selection to ensure less-lethal options are effective. Specifically, APD will continue to issue reminders about the limitation of ECWs during colder months due to bulky clothing.

Increased supervision

In several of the OIS, there were critical situations that might have benefited from a supervisor on scene and/or more active involvement from supervisors. The working group will ensure APD return into policy for both APD and Emergency Communications that supervisors respond to certain calls for service. Finally, APD will increase focus on command and control during maintenance training for supervisors to include scenario-based training.

Continued Mentorship

A significant number of officers involved in shootings had less than six (6) years of experience. This observation is not surprising as the majority of OIS occur with the Field Services Division and less-experienced officers tend to be assigned to FSB, during night shifts. APD officers complete a lengthy training academy as well as field training program upon graduation. However, to ensure newer officers continue to benefit from the guidance of more experienced officers, the working group recommends APD evaluate implementing a policy that Patrolmen Second Class (officers with a year or less experience) are not sent to calls for service with other P2C unless there is an urgent need. APD already limits the number of P2C officer bidding into the same squad.

Additional Equipment for Officers

One of the trends that emerged from review of 2022 OIS is the number of times individuals fired upon officers. APD will evaluate providing all supervisors with a ballistic shield who will provide the shields to their officers during critical incidents when necessary. Additionally, APD will evaluate providing magnifier optic for officers with rifles. Magnifier optics can provide increased visualization for officers and may assist officers in evaluating the threat presented by an individual from a distance.

Clearing Scenes

At least one OIS occurred after the primary suspect was taken into custody. Although policy and several legal doctrines allow officers to briefly search the area where individuals are taken into custody, APD will evaluate these policies to ensure officers do not have potentially unnecessary confrontations with individuals who are not suspected of a crime. To the extent a warrant is issued for a particular residence, APD will consider whether additional resources are necessary to execute a search warrant.

Wound Care

APD policy requires that officers attempt to render medical aid following an OIS, where officer safety considerations allow. One OIS was referred for further investigation for failure to render medical aid. Although APD does not have sufficient information to make a determination as to whether additional efforts would have improved the individual's outcome, APD remains committed to ensuring officers provide appropriate medical care within their abilities. APD will ensure officers continue to receive training on wound care and will include post-incident wound care in future RBT scenarios.

Future Shooting Reviews

APD intends to convene this working work on a semi-annual basis moving forward to discuss any future OIS.

Conclusion

APD has already established several mechanisms for review of OIS. Throughout 2022, these mechanisms identified issues in individual situations and prompted corrective action including disciplinary actions, revisions to training, and clarification of policies. During its holistic review of all shootings, APD has identified additional steps aimed at reducing the number of OIS.