



OFFICE OF POLICE OVERSIGHT

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May 14, 2024

TO: Robin Henderson, Interim Chief, Austin Police Department
FROM: Gail McCant, Director, Office of Police Oversight
SUBJECT: OPO Recommendation, Case # 2024-0122, Officer Felix Perez 9098

Dear Chief Henderson,

On February 12, 2024, Michael Mayo, father of Asia Mayo filed a telephonic complaint on behalf of his daughter (2024-0122). A. Mayo was arrested by Austin Police Department Police (APD) Officer Felix Perez, AP9098 on February 11, 2024 (2024-0420209). Perez injured A. Mayo during the course of her arrest.

On February 15, 2024, A. Mayo was telephonically interviewed and apprised of the Office of Police Oversight's complaint process. A. Mayo advised she wanted to pursue a formal complaint against Perez. On February 20, 2024, A. Mayo signed a sworn affidavit. The affidavit was delivered to the APD Internal Affairs Division (IAD) on February 20, 2024.

On April 24, 2024, APD IAD notified OPO that they completed their internal investigation of the allegations A. Mayo made against Perez. IAD's investigation determined that Perez's use of force against A. Mayo was within policy and classified their investigation as a "Class D."

OPO's review of Perez's and other officers' BWC, when A. Mayo was subdued and arrested, discovered an officer's BWC that demonstrates Perez did not use objectively reasonable force in preventing A. Mayo from striking an individual resulting in A. Mayo becoming injured. The APD officer's BWC was not stored in Evidence.Com under APD Case Number 2024-0420209 noted in Perez's General Offense Report or IAD's investigative report. The Officer was identified as Shalom Alvarez, AP9207. A query of Evidence.Com under APD Case Number 24-0420185 revealed that Alvarez BWC captured Perez approaching A. Mayo from behind, yelling "hey, hey," and then using both his hands to shove A. Mayo to prevent her from striking an individual with her hand. Alvarez's BWC is for February 11, 2024, at 2:25 AM. The force Perez used was significant enough to cause him to lose his balance and almost fall forward. Taking into consideration his size and weight compared to A. Mayo's size and weight, very little force would have been necessary. Perez's force caused A. Mayo to fall forward striking her head on a concrete planter box and then fall semi-conscious to the sidewalk at which time he placed her in handcuffs.

Based on the additional discovery OPO would object to the IAD recommendation with the classification of D and would instead recommend a classification B and C base on the following policy.



APD's General Orders, Chapter 2, Section 200.4, Response to Resistance, 200.4.1, Determining the Objective Reasonableness of Force reads:

Any interpretation of objective reasonableness about the amount of force that reasonably appears to be necessary in a particular situation must allow for the fact that police officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving, and the amount of time available to evaluate and respond to changing circumstances may influence their decisions. The question is whether the officer's actions are "objectively reasonable" in light of the facts and circumstances confronting them.

(a) When determining whether to apply any level of force and evaluating whether an officer has used objectively reasonable force, a number of factors should be taken into consideration. These factors include, but are not limited to:

- 1. Reasonable opportunity for the officer to engage in de-escalation;*
- 2. The conduct of the individual being confronted as reasonably perceived by the officer at the time;*
- 3. Officer and subject factors such as age, size, relative strength, skill level, injury/level of exhaustion and number of officers versus subjects;*
- 4. Influence of drugs and alcohol or mental capacity.*

Regards,

Gail McCant
Director
Office of Police Oversight