

CITY OF ALBUQUERQUE



CIVILIAN POLICE OVERSIGHT AGENCY

January 31, 2025

Via Email

Re: CPC # 035-23

COMPLAINT:

PO Box 1293

Albuquerque

NM 87103

On February 15, 2023, Mr. Z submitted a complaint regarding a hit-and-run vehicle crash he witnessed on the same date. The complainant reported an officer witnessed the scene and did not stop to provide assistance. The complaint alleged Officer G in his marked vehicle drove through the crash scene and failed to stop. The complainant and the victim of the hit-and-run crash, attempted to stop the officer but the officer drove away. The complainant reported he flagged down the officer who pull into a fuel station and was not patrolling, suggesting that it was concerning to see APD officer act in such manner.

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EVIDENCE REVIEWED:

Video(s): N/A APD Report(s): N/A CAD Report(s): Yes

Complainant Interviewed: Yes Witness(es) Interviewed: No

APD Employee Interviewed: Yes

APD Employee Involved: Officer T

Other Materials: Google map of roads, unit history

Date Investigation Completed: July 25, 2024

FINDINGS

1. **Unfounded.** Investigation classification when the investigator(s) determines, by clear and convincing evidence, that alleged misconduct did not occur or did not involve the subject officer.

Policies Reviewed: 1.1.6.C.1 Professional Conduct On and Off Duty

2. **Sustained.** Investigation classification when the investigator(s) determines, by a preponderance of the evidence, the alleged misconduct did occur by the subject officer.

3. **Not Sustained.** Investigation classification when the investigator(s) is unable to determine one way or the other, by a preponderance of the evidence, whether the alleged misconduct either occurred or did not occur.

4. **Exonerated.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, that alleged conduct in the underlying complaint did occur but did not violate APD policies, procedures, or training.

5. **Sustained Violation Not Based on Original Complaint.** Investigation classification where the investigator(s) determines, by a preponderance of the evidence, misconduct did occur that was not alleged in the original complaint (whether CPC or internal complaint) but that other misconduct was discovered during the investigation, and by a preponderance of the evidence, that misconduct did occur.

6. **Administratively Closed.** Investigation classification where the investigator determines: The policy violations of a minor nature and do not constitute a pattern of misconduct (i.e. a violation subject to a class 7 sanction, -the allegations are duplicative; -the allegations, even if true, do not constitute misconduct; or -the investigation cannot be conducted because of the lack of information in the complaint, and further investigation would be futile.

Additional Comments:

This case was assigned to an external investigative agency due to the departure of the originally assigned CPOA investigator. A unit history showed the officer was not on a dispatched call for service at the time of the reported accident. Officer T failed to stop at the scene of the hit-and-run crash scene, while in a marked unit, did not acknowledge or observe the complainant's attempts to gain his attention and yet was aware someone was following him. The officer acknowledged he observed the accident, but did not stop due to normally working in an undercover capacity, other officers were following a car that needed to be stopped, and he knew other officers were in route to the accident. However, attempts to access the CAD and APD case number for the hit-and-run accident were made, but the information was not located. The CPOA recommends a written reprimand. However, due to the departure of staff the time lines as required by the APOA agreement were missed. No discipline can be imposed, but the officer may still receive training, reassignment, and it can be considered as an aggravating circumstance for future cases.

You have the right to appeal this decision. If you are not satisfied with the findings and/or recommendations of the CPOA Executive Director within 30 calendar days (inclusive of holidays and weekends) of receipt of this letter, communicate your desire to have an appeal hearing before the CPOA Advisory Board in a signed writing addressed to the CPOA Director. Please send your request to P.O. Box 1293, Albuquerque, NM 87103, or by email to CPOA@cabq.gov. Include your CPC number. Upon receipt of the communication, a hearing on the matter will be scheduled at the Board's next regularly scheduled meeting provided there is at least 14 business days between the receipt of the request and the next meeting. In order for the Advisory Board to modify the Director's findings, your appeal must demonstrate one or more of the following:

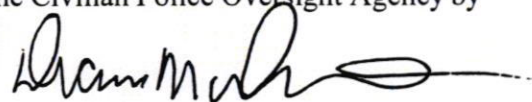
- 1) A policy was misapplied in the evaluation of the complaint;
- 2) That the findings or recommendations were arbitrary, capricious or constituted an abuse of discretion; or
- 3) that the findings and recommendations were not consistent with the record evidence.

Administratively closed complaints may be re-opened if additional information becomes available. Please provide your additional information in writing to the CPOA Director as listed above.

If you are not satisfied with the final disciplinary decision of the Chief of Police or any matter relating to the Chief's handling of the complaint you may request a review of the complaint by the City's Chief Administrative Officer. Your request must be in writing and within 30 calendar days (inclusive of holidays and weekends) of receipt of this letter. Include your CPC number.

If you have a computer available, we would greatly appreciate your completing our client survey form at <http://www.cabq.gov/cpoa/survey>. There was a delay in the issuance of findings due to multiple staff changes including investigators and the Director along with a high volume of investigations and reviews to process. Thank you for your patience and participation in the process of civilian oversight of the police.

Sincerely,
The Civilian Police Oversight Agency by



Diane McDermott
Executive Director
(505) 924-3770

cc: Albuquerque Police Department Chief of Police