

**OFFICE OF INSPECTOR GENERAL
CITY OF ALBUQUERQUE**



**Investigative Report
Case # 12-207**



OFFICE OF INSPECTOR GENERAL
CITY OF ALBUQUERQUE

December 21, 2011

Barbara Baca
Director, Parks and Recreation Department
City of Albuquerque

Dear Ms. Baca,

Re: OIG-12-207, Alleged Violence in the Workplace by PRD Employee

On October 27, 2011, Robert Caswell Investigation (RCI) was assigned by the City of Albuquerque, Parks and Recreation Department (PRD) Director, Barbara Baca, to conduct an investigation regarding an allegation of possible violence in the workplace involving PRD1. On or about October 31, 2011, the Office of Inspector General (OIG) was contacted by and met with RCI to discuss this investigation. RCI and the OIG agreed to coordinate activities and resources regarding this investigation.

Enclosed please find a copy of the OIG's investigative report regarding this matter.

Respectfully,

Neftali Carrasquillo, Jr.
Inspector General

cc: Richard J. Berry, Mayor
City Council
Robert J. Perry, CAO
John Soladay, COO

Executive Summary

On October 27, 2011, Robert Caswell Investigation (RCI) was assigned by the City of Albuquerque, Parks and Recreation Department (PRD) Director, Barbara Baca, to conduct an investigation regarding an allegation of possible violence in the workplace involving PRD1. On or about October 31, 2011, the Office of Inspector General (OIG) was contacted by and met with RCI to discuss this investigation. RCI and the OIG agreed to coordinate activities and resources regarding this investigation.

The OIG investigation included conducting joint interviews with a number of PRD employees along with RCI; reviewing documents and information; and evidence gathering. Based on the investigation, the OIG concludes the following:

1. That on October 20, 2011, PRD1 did inappropriately walk up behind PRD2 and put his arms around him for several seconds before releasing him.

2. That PRD1 was issued a summons for Battery, based on a criminal complaint filed by PRD2 (October 21, 2011) and subsequent APD investigation.

3. That PRD1 acted inappropriately, both verbally and physically, on at least four prior occasions, some of which had been reported to management.

4. That these actions by PRD1 are in violation of the Code of Conduct, Section 301, as it relates to the standard of conduct and violence in the workplace.

5. That there has been a lack of responsible supervision of this employee and the OIG found minimal action taken, most of which was undocumented.

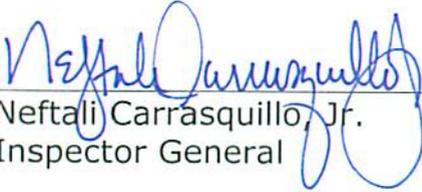
The OIG makes the following recommendations for consideration by the Parks and Recreation Department:

1. That PRD Supervisors and Managers be provided documented Workplace Violence Training and/or refresher, on a yearly basis, so that policies and related disciplinary action regarding this area is clearly understood and reinforced.

2. That PRD management provides its employees with the workplace violence policy and related sanctions based on violations of the policy. This should be documented, with signed acknowledgement by the employee.

3. That PRD implement mandatory documented reporting of all workplace violence incidents with required follow-up by PRD management to assess if a formal investigation is warranted.

Details of the investigation are contained within the investigative report and are attached to this executive summary.


Neftali Carrasquillo, Jr.
Inspector General

OIG INVESTIGATIVE REPORT

On October 27, 2011, Robert Caswell Investigation (RCI) was assigned by the City of Albuquerque, Parks and Recreation Department (PRD) Director, Barbara Baca, to conduct an investigation regarding an allegation of possible violence in the workplace involving PRD1. On or about October 31, 2011, the Office of Inspector General (OIG) was contacted by and met with RCI to discuss this investigation. RCI and the OIG agreed to coordinate activities and resources regarding this investigation.

I. On October 28, 2011, PRD2 visited the OIG regarding his desire to talk to us about some issues and stress he was experiencing at his workplace. Prior to being interviewed, PRD2 was advised and acknowledged that he was being taped.

PRD2 stated that on October 27, 2011 during the afternoon he had gone to speak to PRD3 at the cage and somebody walked up behind him and put him in a choke hold. PRD2 stated he started moving backwards in his reaction during the struggle and that PRD1 would crank down harder again and again and felt as if PRD1 was trying to send a message that he could hurt him if he wanted to. PRD2 stated he reacted by using his prior training to release the hold. PRD2 explained the size difference between him and PRD1 and stated that, as a result of this incident, he had a bruise around his stomach area and soreness on his neck for four days. PRD2 stated he could not understand why a blue collar worker would put his hands on a mid-level manager in that fashion. PRD2 stated he was shaken up from the incident and that PRD1 did not warn him or say anything before or during the incident. PRD2 stated that after the incident PRD1 asked him for a card and he got his composure and walked off, went to his office, and wondered what the heck just happened. PRD2 was asked why he thought PRD1 did this and PRD2 stated he thinks PRD1 needs anger management training. PRD2 stated he has witnessed rude behavior from PRD1, but has never seen any violence.

PRD2 was asked if he reported the incident to anyone. PRD2 stated he wanted to file a battery charge against PRD1, but stated he was given a memorandum not to make a police report. PRD2 stated the memorandum was sent to him by PRD8. PRD2 stated the memo was generated due to a burglary of some equipment that was in a locked room and because PRD4 filed a police report. The OIG reviewed the interoffice memo "Guidelines for Notification of Law Enforcement", dated October 20, 2011 from PRD8. The memo reads:

Good afternoon. Should a non-critical or non-emergency circumstance arise that may require a law enforcement agency being contacted, the necessity for such shall be determined by a consensus and at the discretion of senior administrative personnel.

This type of action shall not be undertaken without first being directed to do so. There is a protocol to be followed for each unique situation that requires the attention of law enforcement officials. Failure to follow the correct procedure may compromise the course of action needed to resolve and bring satisfactory closure to the issue.

These written guidelines regarding notification of law enforcement for non-critical or non-emergency work related criteria should be followed without compromise. Please direct any questions, concerns or suggestions to my office.

It should be noted that upon reading a copy of this memo, the OIG forwarded a letter to the Director, Parks and Recreation, expressing our concerns regarding the reasons and content of this memo. It is our understanding that PRD has since rescinded and revised this memo.

PRD2 stated that he called PRD7 the next day telling him he didn't know what to do and informed PRD7 about the inter-office memo from PRD8 about contacting law enforcement. PRD2 stated he had a problem with that and asked PRD7 what he should do because he didn't want to get written up. PRD2 stated that PRD7 told him to make a police report and follow it up with a call to the OIG. PRD2 also told PRD7 that PRD3 was a witness to the incident.

PRD2 stated he filed a police report on October 21, 2011. PRD2 stated that the APD officer asked him if he was willing to file charges against PRD1, which PRD2 replied, "Yes." PRD2 stated that the officer then went to the Pino Yards and spoke to the witness PRD3 and the suspect PRD1.

PRD2 was asked if he knows of any other City employees who have gotten battered by PRD1. PRD2 stated that about 13 others came to him after this incident telling him about their particular incidents with PRD1. PRD2 stated besides PRD1, there have been other incidents between employees where nothing has been done. PRD2 stated the he believes people are finally coming out to report this because he was not afraid to report it. PRD2 stated that there seems to be a culture within park management where they don't want to do anything about workplace violence.

II. On October 28, 2011, PRD 4 was interviewed by RCI. PRD4 was advised of his obligation to cooperate and that he was being taped. PRD4 also acknowledged that he had received and signed a letter of interview provided to him by PRD. PRD4 was advised that he had the right to consult with a union representative or legal.

PRD4 stated that he has known PRD2 since he started working for the City. PRD4 stated that for about the last four years he and PRD2 have worked together conducting

training classes for PRD employees. PRD4 stated that he did not see PRD2 until the day after the incident had occurred with PRD1. PRD4 stated that PRD2 told him that PRD1 had battered him the previous day putting him into a choke hold and that during the altercation PRD2 went backwards 5-6 feet trying to wrestle and get out of the choke hold. PRD4 stated that initially he thought it was a mild thing of horseplay and PRD2 was pissed off about it.

PRD4 stated that he took PRD2 to City Hall the day after the incident to see PRD7. PRD7 told PRD2 to report the incident to APD and then to the Inspector General's Office. PRD4 stated that he took PRD2 to the North East APD sub station to make a police report. PRD4 was asked why he thought PRD2 took the case to APD. PRD4 replied that in the past when workplace violence issues were brought to the attention of the previous administration, they were not resolved.

III. On November 1, 2011, PRD5 was interviewed by RCI and the OIG regarding an allegation of workplace violence. PRD5 was advised of his obligation to cooperate and that he was being taped. PRD5 also acknowledged that he had received and signed a letter of interview provided to him by PRD. PRD5 was advised that he had the right to consult with a union representative or legal.

PRD5 stated that he has known PRD1 six years. PRD5 stated that he has never had any problems with PRD1 but there have been a few instances where there were verbal exchanges between PRD1 and other employees such as name calling. PRD5 stated that these employees took their concerns to PRD10, and that he (PRD10) told him to address the language concerns with PRD1. PRD5 stated that he verbally counseled PRD1 on the unacceptable language issue and that he also advised the other supervisors to counsel their employees regarding the verbal exchanges. PRD5 stated that he did not document the counseling and that he has counseled PRD1 twice in the last six years regarding verbal issues. PRD5 stated he had told PRD1 that he needed to bite his tongue and get his work done.

PRD5 was asked if he was familiar with the employee code of conduct and violence in the workplace, to which PRD5 stated he was somewhat familiar. PRD5 was asked if he had ever been told that PRD1 had physically assaulted, choked, or kicked anyone, to which PRD5 stated no. PRD5 stated that he was notified about the incident between PRD2 and PRD1 on Friday, October 21, 2011. PRD5 stated he saw two police officers at the stock room and learned that PRD3 had witnessed the incident. PRD3 told PRD5 what had occurred with PRD1 and PRD2.

PRD5 was asked if he knew of any other City employees who were involved in disputes with PRD1 and PRD5 stated that he, along with PRD9, had to get involved and mediate a problem with PRD17 and PRD1 because they did not get along but had to

work with each other. PRD5 also stated that PRD10 came to him about PRD1's behavior and that PRD5 spoke to PRD1 about it.

PRD5 was asked if he had asked PRD1 about the incident with PRD2. PRD5 stated that PRD1 told him, "I don't know what happened, I walked up behind PRD2, grabbed him and picked him up and teased him about being moved to Balloon Fiesta, then talked with PRD3 and asked him about the laminator." PRD5 stated that PRD1 went on to tell PRD5 that he went to PRD2's office and they laminated papers and that PRD2 did not tell him not to touch him or say anything. PRD5 stated that PRD2 is being transferred to Balloon Fiesta Park from Pino yards for training purposes.

PRD5 was asked if violence in the workplace is an acceptable practice with the City or a culture of acceptable behavior. PRD5 stated within PRD it's been "**just let it go, let it go away, and it's gone.**" PRD5 said he has spoken to other divisions within the City and **it's the norm.**

IV. On November 2, 2011 RCI interviewed PRD6. PRD6 stated that one of the supervisors came to him and told him her employees did not want to work with PRD1. PRD6 stated he approached PRD1 who told him the employees don't respect him and took his tools. PRD6 stated that he does not think PRD1 has anger issues and that he has never seen PRD1 horseplay with anyone. PRD6 stated that he does not tolerate horseplay in the workplace. PRD6 said he is not intimidated by PRD1, but could see some may be as he is a large man.

PRD6 stated PRD1 told him on the date of the incident that he went up to PRD2 and told him "I heard you're leaving us" and grabbed him in a bear hug, playful manner. PRD6 stated PRD1 told him he could not believe PRD2 called the police and said about an hour later PRD1 went to PRD2's office to print and laminate copies. PRD6 stated PRD2 is having a hard time with the new changes in the department and that PRD2 is being moved to the Balloon Fiesta Park office where he will report to PRD8. PRD6 stated that PRD2 will have a much bigger training center but believes PRD2 does not like the changes.

V. On November 7, 2011, RCI interviewed PRD7 via telephone. PRD7 stated he was contacted by PRD2 and PRD4 from PRD, who wanted advice regarding a few incidents. PRD7 stated PRD2 told him he had been battered/choked by another male employee while on the job at Pino Yards and did not want to be retaliated against by management or the suspect for reporting it. PRD7 stated PRD2 and PRD4 showed him an inter-office memo stating that PRD employees could not call police and it had to be management who called APD. PRD7 stated he told PRD2 he needed to report it to APD and his management and get it documented.

VI. On November 8, 2011, PRD3 was interviewed by RCI and the OIG regarding a workplace violence allegation. PRD3 was advised of his obligation to cooperate and that he was being taped. PRD3 also acknowledged that he had received and signed a letter of interview provided to him by PRD. PRD3 was advised that he had the right to consult with a union representative or legal, which he had one union representative present.

PRD3 stated he was talking to PRD2 about him being transferred to Balloon Fiesta Park when PRD1 approached PRD2 from behind and grabbed PRD2 in the mid-section and around the shoulder or neck area. PRD3 stated PRD1 shook PRD2 telling him "I heard you're getting moved out." PRD3 stated it lasted no longer than five seconds and that PRD2 looked surprised and startled. PRD3 was asked if he thought PRD2 looked scared. PRD3 stated, "I guess for a moment until he knew who it was." PRD3 stated PRD1 did not say anything to PRD2 before he grabbed him and only spoke to him during the incident. PRD3 was asked what he thinks the reason was for PRD1 grabbing PRD2 and PRD3 stated that he believed PRD1 was not aggressive and was only playing around. PRD3 stated they only moved a few steps back and it was over and that PRD2 never told PRD1 "stop" or "leave me alone".

PRD3 stated that after the incident, PRD1 jokingly told PRD2 he is leaving to Balloon Fiesta Park with a boot print on his back and they all laughed about it. PRD3 stated PRD2 did not seem upset or frustrated and that he carried on with a normal conversation. PRD3 stated he has seen PRD1 horseplay before. PRD3 did state that he considers PRD2 part of management and would not have expected someone to do that to PRD2 as he is in a professional position. PRD3 stated he would have been surprised if someone grabbed him.

PRD3 provided the following statement to APD as part of their investigation:

"On the day 10-20-2011 at 2pm, I witnessed PRD1 come up behind PRD2 and put his arms around PRD1. One arm was up high around the neck and another around his mid-section and shook him a bit. In my eyes it was horseplay with PRD1 Laughing. PRD2 looked scared for the moment but finish his conversation with me. I cannot remember any other words exchanged between PRD1 and PRD2. I did find PRD1's actions unusual because PRD1 and PRD2 didn't seem to have a close relationship to behave in that manner."

VII. On November 8, 2011, PRD1 was interviewed by RCI and the OIG regarding an allegation of workplace violence. PRD1 was advised of his obligation to cooperate and that he was being taped. PRD1 also acknowledged that he had received and signed a notice of investigation provided to him by PRD. PRD1 was advised that he had the right

to consult with a union representative or legal, which he had a union representative present.

PRD1 stated he was looking for PRD2 because he had a paper to laminate. PRD1 stated he saw PRD2 talking to PRD3 and that he then walked up to PRD2 and put his hand around him, then let him go and shook his shoulders. PRD1 stated he did not choke PRD2 and that he let go of him and said "come on PRD2," joking around because PRD2 did not react or do anything. PRD1 stated PRD2 finished his conversation with PRD3. PRD1 stated that PRD2 had been complaining for over a month that they were moving him to Balloon Fiesta Park, so he teased PRD2 asking him if he had gotten his golf clubs. PRD1 stated at that point PRD4 walked up. PRD1 stated he asked for the laminator and PRD2 told him to come back to his office after an hour and he would laminate it for him. PRD1 stated about an hour later he returned to PRD2's office and he and PRD4 were in there. PRD2 took out the laminator and went into the training room where he showed him how to use it. PRD1 stated that PRD4 left and came back briefly as PRD2 received a call from an unknown person and that PRD2 was very upset about an email memo that he got from PRD8 regarding an incident with PRD4 the previous day. PRD1 stated PRD2 was mad because it stated they had to go through administration to call police. PRD2 was telling the person on the phone that it was a violation of his civil rights. PRD1 stated PRD2 shut the door as he used the laminator and that PRD2 was very stressed out, and then left work to pick up his daughter. PRD1 stated he did not think it was a big deal until the police showed up the next day.

PRD1 was asked what his intention was by grabbing PRD2 and he stated, "Being stupid and goofing around." PRD1 was asked if he thought it was appropriate for him to grab a manager and he stated that he and PRD2 are friends and he, PRD2, and PRD4 have gone on hikes and lifted weights during lunch a few times. PRD1 was asked if he has horse played with anyone else and he stated he has. PRD1 was asked if he has ever been counseled by supervisors not to horse play and he stated, "no, not specifically." PRD1 was asked if PRD5 has ever counseled him and told him not to horse play. PRD1 stated, "No." PRD1 was asked if management has ever spoken to him and told him to keep his language to a minimum and that he had to get along with others. PRD1 stated, "Yes, I have been told that, by PRD5."

PRD1 was asked about other incidents that have occurred and he stated that at least five to six years ago, PRD14 brought in a mower that was low on oil and that he (PRD1) told PRD14 to "take his head out of his ass." PRD1 stated PRD14 and he got in each other's faces and PRD14 threw a pair of gloves at him and he tried to kick PRD14 in the butt, but more or less missed. PRD1 stated no one ever counseled him for this incident.

PRD1 stated there was another incident with PRD12 where they got into a verbal argument but that he never touched PRD12 and PRD15 witnessed it. PRD1 stated he was verbally told by PRD5 to just leave him alone and stay away from him.

PRD1 was asked to explain an incident with PRD13. PRD1 stated he did not recall the incident.

PRD1 was asked to explain an incident with PRD15. PRD1 laughed and stated that things happen constantly with PRD15 and that he has grabbed PRD15 several times and PRD15 has grabbed him and that they joke around a lot.

PRD1 was asked about an incident with PRD17 and he stated that it was a verbal confrontation. PRD1 stated he was brought into PRD10's office and given a written reprimand. PRD1 stated PRD5 and PRD18 were also present when he was given the letter from PRD10.

VIII. The following are interviews of other PRD employees who have had incidents involving PRD1:

(a) On October 31, 2011, PRD12 was interviewed by RCI. PRD12 stated that in 2009 he had an altercation with PRD1 where PRD12 was working on his mower when PRD1 grabbed his right arm and told him, "You're not working up to my expectations, you're working too slow. I don't need you in the shop." PRD12 stated PRD1 grabbed him and threw him out of the shop as he tried to kick PRD12 grazing the back of his leg. PRD12 stated after the incident he went straight to PRD16 to report the incident. PRD12 stated that PRD16 told him this was not the first time something like this has happened and that he would write it up and talk to PRD5 about this. PRD12 stated that PRD1 often used foul language toward employees when they brought equipment in to be worked on. PRD12 stated that he feels PRD1 is very unprofessional and has been told that time and time again.

(b) On November 1, 2011, PRD14 was interviewed by RCI and the OIG regarding a workplace violence allegation. PRD14 stated that he has contact with PRD1 and PRD11. PRD14 stated that he gets along with PRD11 but avoids PRD1 and gets what he needs at the shop and leaves because PRD1 is mean. PRD14 stated that PRD1 belittles him and tells him he is stupid. PRD14 stated that he has mentioned to PRD9 that he does not like working with PRD1. PRD14 was asked if he was afraid of PRD1, he responded he is not afraid, but is uncomfortable and watches his back around him.

PRD14 was asked if PRD1 had ever done anything physically to him. PRD14 stated there was an incident three to four years back where he was working with a coworker who told him to leave the keys in a City vehicle they were using and had left parked at Pino yards near the shop. PRD14 stated PRD1 told him, "You dumb ass,

don't you have any brains (Referring to PRD14 leaving the keys in the vehicle)?" PRD14 stated PRD1 was in his face and throwing his hands in the air. PRD14 stated he turned to walk away and was kicked in the lower back by PRD1. PRD14 stated he turned around to defend himself and PRD1 walked away. PRD14 stated the incident was documented by PRD19 and is not sure what he did about it. PRD14 stated he did not fill out a police report or official City complaint form.

PRD11 stated nothing is ever done about these types of workplace issues and it is always brushed under the rug. PRD11 stated PRD1's issues are supposed to be handled by PRD5 and they never are.

(c) On November 1, 2011, PRD13 was interviewed by RCI and the OIG regarding an allegation of workplace violence. PRD13 stated he had an incident with PRD1 about four to five years. PRD13 stated that at times his crews would have to go to PRD1's shop for servicing equipment and they would tell PRD13 that PRD1 was rude and would belittle them telling them they were stupid. PRD13 stated that one of his employees after a few incidents refused to go where PRD1 worked.

PRD13 stated he went to Pino Yards to drop off payroll and saw PRD1 and asked him why he was mistreating his employees' and told PRD1 "you big Frankenstein", provoking him. PRD13 stated PRD1 shrugged his shoulders and PRD13 walked away. PRD13 stated as he passed PRD1, PRD1 grabbed him from behind in a full nelson and then let him go. PRD13 stated he was more embarrassed then anything and walked away. PRD13 stated he was not injured and it was so long ago, they smirked at each other and left it at that. PRD13 stated after that point his crews did not deal with PRD1 anymore and used a contractor service when PRD11 was not available. PRD13 stated he should have documented it, but did not. PRD13 stated he does not feel PRD1 should touch anyone.

(d) On November 9, 2011, PRD17 was interviewed by RCI and the OIG regarding an allegation of workplace violence. PRD17 stated that he has been going to the 6th street shop since the verbal altercation with PRD1 two years ago. PRD17 gave RCI and the OIG a copy of a statement he had given PRD10 after the incidents occurred. In the letter, PRD17 stated that he was verbally abused by PRD1, and that he thought at one point it was going to get physical and that he would protect himself. PRD17 stated that he walked away so that it would not escalate further.

PRD17 stated that he told PRD10 what had occurred along with the letter and that PRD10 told him, "Until we can get control of this, go ahead and go down to PRD11." PRD17 stated the day before this interview, PRD9 told him that he would have to bring the equipment to Pino Yards and not to the 6th street shop anymore and if he needed to they would have a supervisor stand by while PRD17 worked on the equipment. PRD17

stated that if we are all grown men; we should not have to have someone stand by. PRD17 was asked if he has been avoiding PRD1 since 2009. PRD17 stated, "Yes."

PRD17 stated he was with PRD14 when PRD1 kicked PRD14 in the back. PRD1 complained to PRD14 about leaving his keys in a City vehicle. PRD17 also stated another time he was passing by Pino Yards shop when he witnessed PRD1 push PRD12. PRD17 stated he contacted PRD9, and told her what he had witnessed. PRD17 stated he told PRD9 at that point he does not want to work with PRD1. PRD17 stated he also notified PRD5 of the incident and PRD5 apologized and told him he would like to set up mediation between him and PRD1 to solve the issue. PRD17 stated that PRD5 called him and told him that PRD1 refused to meet. PRD17 stated that there was no other follow up to the incident and he has never had any other incident with PRD1