



OFFICE OF INSPECTOR GENERAL
City of Albuquerque

Melissa Santistevan
Inspector General

P.O. Box 1293, Suite 5025
Albuquerque, New Mexico 87103
Telephone: (505) 768-3150
Fax: (505) 768-3158

Report of Investigation

FILE NO: 21-0101

SUBJECT: Animal Welfare Department, Multiple Complaints

STATUS: Final

INVESTIGATOR: J.S.

DocuSigned by:
Melissa R. Santistevan
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MELISSA SANTISTEVAN
INSPECTOR GENERAL
OFFICE OF INSPECTOR GENERAL

02/11/2022
Date of Completion

DocuSigned by:
Edmund E. Perea, Esq.
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EDMUND E. PEREA, ESQ
ACCOUNTABILITY IN GOVERNMENT
OVERSIGHT COMMITTEE CHAIRPERSON

02/24/2022
Date of Approval

DISTRIBUTION:

- Honorable Mayor**
- President City Council**
- Chief Administrative Officer**
- City Councilors**
- Director Council Services**
- City Attorney**
- Department Director**
- Members, Accountability and Government Oversight Committee**
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Executive Summary:

On December 20, 2021, a news story aired alleging that the City of Albuquerque's Animal Welfare Department (AWD) violated policies and procedures in the matter of the adoption of an intact dog to an officer with the Albuquerque Police Department (APD). Based on the news story, the Office of Inspector General (OIG) initiated a case to investigate the matter.

On December 21, 2021, the OIG received an email defining numerous complaints regarding AWD. The email contained six (6) allegations of violations of City ordinances and abuse by the AWD. The allegations outlined in the email complaint are as follows:

Allegation One: There was 'a mauling on a staff member and there was no investigation, and nothing was done' regarding incident.

Allegation Two: A rodent issue with health concerns such as Hantavirus.

Allegation Three: Extreme heat and cold in the kennels in violation of the HEART Ordinance.

Allegation Four: Violation of the HEART Ordinance by allowing the adoption of an intact dog from the shelter.

Allegation Five: AWD does not provide adequate breastfeeding locations for staff member and making staff breastfeed in a room with animal feces or other staff present.

Allegation Six: A high-level staff member is being 'sued in a private lawsuit' but the City is paying the legal fees.

The OIG determined that the allegation contained potential fraud, waste, or abuse and that it was appropriate for the OIG to conduct a fact-finding investigation. The purpose of the investigation was to determine the facts surrounding each allegation identified in the complaint. The OIG referred allegation two to Risk Management to issue a report given their expertise with regard to OSHA requirements. The results of the Risk Management Report were considered in the OIG investigation.

The OIG investigated the allegations by obtaining and reviewing the complaint and all documents submitted by the complainant, obtaining and reviewing documentation received from City Employees, obtaining and reviewing policies and procedures related to the HEART Ordinance, Personnel, and OSHA. The OIG conducted interviews of City personnel, inquired with Legal Counsel and Risk Management.

FINAL

The OIG's investigation revealed that two (2) of the six (6) allegations could not be substantiated. The unsubstantiated allegations included allegations one (1) and six (6). Each allegation was addressed separately and the OIG's observations are identified in our investigative report. As a result of our investigation, OIG has made two (2) recommendations for improvement related to observations. See the OBSERVATIONS AND RECOMMENDATIONS section on pages 12-14 of the report.

Abbreviations:

AWD – Animal Welfare Department
AWD-1 – HR Senior Staff Member
AWD-2 – AWD Employee
AWD-3 – AWD Employee
AWD-4 – AWD Employee
ADT-1 – Adopter
HEART - Humane and Ethical Animal Rules and Treatment
OIG – Office of Inspector General

INTRODUCTION

The mission of the Office of Inspector General (OIG) is to promote a culture of integrity, accountability, and transparency throughout the City of Albuquerque in order to safeguard and preserve the public trust.

Pursuant to City Ordinance 2-17-2, the Inspector General's goals are to: (1) Conduct investigations in an efficient, impartial, equitable and objective manner; (2) Prevent and detect fraud, waste and abuse in city activities including all city contracts and partnerships; (3) Deter criminal activity through independence in fact and appearance, investigation and interdiction; and (4) Propose ways to increase the city's legal, fiscal and ethical accountability to insure that tax payers' dollars are spent in a manner consistent with the highest standards of local governments.

A news story published on December 20, 2021, alleged that that Animal Welfare Department (AWD) violated its own policies in the matter of the adoption of an intact dog to an officer with the Albuquerque Police Department (APD).

On December 21, 2021, the OIG received an email defining numerous complaints regarding AWD. The email contained six (6) allegations of violations of City ordinances and abuse by the AWD.

SCOPE AND METHODOLOGY

The scope of the investigation involved the performance of certain procedures to assess the merits of each allegation against the AWD. The methodology consisted of:

- Review the complaint and all documents submitted by complainant
- Review previous investigative reports relating to the AWD department
- Obtain HEART Ordinance and policies and procedures within AWD
- Contact City of Albuquerque Risk Management regarding OSHA matters
- Conduct a walk through of the AWD location involved
- Review incident reports of any “mauling” incidents and any subsequent reviews
- Review temperature logs from AWD
- Contact Legal and Risk management to determine if there are pending lawsuits

- Review all other relevant documentation regarding these allegations, to include previous reports, newspaper articles, etc.
- Conduct interviews of AWD employees and other related parties

This report was developed based on information from interviews, inspections, observations, and the OIG's review of selected documentation and records.

INVESTIGATION

Policy Background:

Humane and Ethical Animal Rules and Treatment (HEART) Ordinance Background

§ 9-2-1-3 Legislative purpose and intent

- (A) The focus of this article is the prevention of cruelty, harm, suffering, abandonment or death of animals caused by irresponsible pet owners and the criminal acts of callous individuals. Mandatory spay and neuter laws will help stop animal overpopulation.
- (B) This article is also focused on assuring that the Albuquerque Animal Care Center (AACC) not only maintains exemplary standards of humane animal care, but promotes community education regarding humane animal care and the importance of spaying and neutering companion animals. It is equally important that the staff of the AACC reach out to the community in positive ways such as putting forward friendly, helpful customer service including serious efforts to reunite lost animals with their owners and facilitate successful adoptions. The AACC is charged with implementing and enforcing the "Humane and Ethical Animal Regulations and Treatment (HEART)" Ordinance. It is the duty of all AACC employees to protect all animals in Albuquerque from neglect and abuse and to protect the public from the dangers and nuisance that are possible when irresponsible owners do not take care of their animals according to the requirements set forth in this article. Many animal neglect cases can be beneficially resolved through education, mediation and counseling. The AACC shall endeavor to provide such counseling.
- (C) AACC facilities are not just a series of holding pens where animals are incarcerated for doing something wrong. The AACC will humanely and compassionately care for animals housed at the AACC facilities by providing a safe haven for animals while trying to reunite lost animals with their owners or find new successful adoptive homes for the animals at AACC. The employees of AACC shall be advocates for animals.
- (D) The City Council intends through this article to deter and modify the habits and conduct of irresponsible pet owners who are the source of public safety problems and the suffering of animals.

The Humane and Ethical Animal Rules and Treatment (HEART) Ordinance became effective on October 10, 2006.

Administrative Instruction (AI) 7-53 Break Time for Lactation Background

The City of Albuquerque recognizes the health benefits of breastfeeding and supports accommodation of mothers who choose to utilize their own breast pump to express breast milk upon returning to work after maternity leave of absence.

This Administrative Instruction follows the break time requirement for nursing mothers in the Patient Protection and Affordable Care Act (PPACA), which took effect on March 23, 2010 (P.L. 111-148). PPACA also amended Section 7(r) of the Fair Labor Standards Act (FLSA) which regulates break time for nursing mothers.

This Administrative Instruction also aligns with New Mexico state law [NMSA 1978, Section 28-20-2 (Amended 2007)] which requires employers to provide flexible break time and a clean, private space, not a bathroom, in order to foster the ability of a nursing mother who is an employee to use a breast pump in the workplace. The effective date of AI 7 53 was May 31, 2017.

Observations

The complaint outlined six (6) allegations. The OIG looked at each allegation independently and our observations related to each allegation is documented with regard to the specific allegation.

Allegation One: There was ‘a mauling on a staff member and there was no investigation and nothing was done’ regarding incident.

This allegation was not investigated due to the fact that this matter is pending litigation. OIG ordinance 2-17-6 prohibits the Office of Inspector General from investigating matters of pending litigation.

Allegation Two: A rodent issue with health concerns such as Hantavirus.

According to the HEART Ordinance, § 9-2-2-4 HOUSING AND RESTRAINT STANDARDS FOR MAMMALS AND BIRDS KEPT AT BOARDING KENNELS, GUARD DOG SITES, ANIMAL SHELTERS INCLUDING THE ALBUQUERQUE ANIMAL CARE CENTER (AACC) AND PET STORES (NON-RESIDENTIAL SITES).

(3) Cleanliness. The entire premises shall be kept clean and in good repair in a manner which will protect Animals from disease or injury. Feces and urine must be removed at least twice daily from Companion Animal living quarters to prevent odors and possible dangerous or toxic exposure or contamination by fecal material, mold or internal and external parasites that could harm the Animal or cause the spread of disease to other Animals or humans. After cleaning, cats shall not be returned to their enclosures until the enclosures have air dried. Soiled bedding must be changed daily. If hosing the enclosures, the Animals must be removed and not allowed to come in contact with the dirty, pooled water or wet floors. Animals shall never be squirted with water. Suitable drainage must be provided. There can be no standing water.

This allegation was referred to the Risk Management personnel responsible for OSHA compliance and their report was relied upon for the OIG investigation. The OIG notified Risk Management of the allegations on December 22, 2021. Risk Management scheduled a review of the facility for December 27, 2021. Upon completion of the review, Risk Management forwarded their Facility Audit report to the OIG. The report stated “due to the large number of rodent droppings, cockroach activity, and bird droppings, this facility must use a professional contracted pest control and cleaning company to treat the building. All possible rodent entryways must be sealed to prevent future infestation. Also, the facility must conduct weekly deep cleaning and store animal food in plastic containers to prevent future cockroach infestation once they are removed”.

In addition, the report did mention rodent and droppings in numerous areas as well as live birds and roaches inside building. Staff did not have proper PPE to clean said droppings.

The OIG visited the AWD on January 5, 2022, and physically inspected the facility. AWD staff advised the OIG that staff from Risk Management visited the facility to discuss personal protective equipment (PPE) and proper cleaning procedures with AWD Staff. Staff will be provided with PPE to clean if droppings are found.

Allegation Three: Extreme heat and cold in the kennels in violation of the HEART Ordinance.

According to the HEART Ordinance, § 9-2-2-4 HOUSING AND RESTRAINT STANDARDS FOR MAMMALS AND BIRDS KEPT AT BOARDING KENNELS, GUARD DOG SITES, ANIMAL SHELTERS INCLUDING THE ALBUQUERQUE ANIMAL CARE CENTER (AACC) AND PET STORES (NON-RESIDENTIAL SITES).

(5) Heating and cooling systems are required if needed to keep the temperature between 60 and 80 degrees Fahrenheit. All kennel buildings constructed after the effective date of this article that are not fully and constantly enclosed shall be required to contain radiant floor heat. Existing kennel buildings not fully and constantly enclosed must install radiant floor heat within five years of the effective date of this article. Ventilation must be such that there are no drafts in the winter, odors, or moisture condensation. The general ventilation guideline for the areas in which the Animals are confined is ten to 15 fresh air changes per hour. All kennel buildings constructed after the effective date of this article shall install ventilation systems that adhere to this guideline. Existing kennel buildings that do not meet this guideline must do so within five years of the effective date of this article.

AWD-2 stated “this has been a work in progress, since the company working with us on this is trying to determine the best system to cool/heat an indoor/outdoor facility. In the meantime, we have backup systems standing by in case of emergency. We have also recently been allocated \$1.7m to replace the HVAC system at both shelters.” The Heating, ventilation, and air-conditioning (HVAC) system should allow for better control of the temperature, humidity and purity of the air in the enclosed space as well as providing thermal comfort and acceptable indoor air quality. In turn, doors will not need opened for ventilation and ducts will be sealed to help reduce rodents from entering. The plans were reviewed and a recent walk through was completed of the facility, with a contractor for the facility upgrades.”

AWD-2 provided documents to the OIG to review to demonstrate the requests and approvals for the facility upgrades.

The OIG requested temperature logs but were advised by AWD-2 that there are no written logs maintained by the AWD.

Allegation Four: Violation of the HEART Ordinance by allowing the adoption of an intact dog from the shelter.

According to the HEART Ordinance, § 9-2-2-3 REQUIRED CARE AND MAINTENANCE FOR MAMMALS AND BIRDS KEPT AT BOARDING KENNELS, GUARD DOG SITES, ANIMAL SHELTERS INCLUDING THE ALBUQUERQUE ANIMAL CARE CENTER AND PET STORES (NON- RESIDENTIAL SITES):

(C) Required Alteration of Companion Animals. No Companion Animal owned by a person who lives in Bernalillo County, or the surrounding counties of Valencia, Sandoval, Cibola, Santa Fe and Tarrant shall leave any Animal Shelter including AACC without having been Altered except as provided herein. The foregoing does not apply to a permitted Intact Animal which is not required to be Altered until Impounded twice at AACC or to an Animal whose Alteration would be dangerous due to age or health issues. This provision does not apply to Boarding Kennels and Guard Dog Sites. Intact Animals at Guard Dog Sites must have Intact Animal Permits.

Also, in the HEART Ordinance, § 9-2-1-2 FINDINGS, it states:

(H) The Council further finds that spayed and neutered animals are less likely to run loose, bark excessively, and endanger the public and other animals. Most importantly, altered animals do not add to the animal overpopulation problem. Altered animals are less likely to end up at animal shelters that have no other option but to destroy those animals.

(I) The Council further finds that companion animal over-population in the City endangers animals and human beings. Animal overpopulation requires taxpayers to bear the burden of caring for tens of thousands of unwanted or lost animals. In 2005, the City was forced to euthanize an average of 300 unwanted dogs and cats a week. We must lower the overwhelming supply of animals, bringing it in line with the much lower demand.

According to the definitions section of HEART Ordinance: *ALTER* = To render an Animal incapable of reproduction.

Further, according to § 9-2-3-6 INTACT COMPANION ANIMAL PERMIT OR ICAP.

Owners of dogs and cats over the age of six months that have not been Altered shall obtain an Intact Companion Animal Permit for those Animals.

(A) All Intact Companion Animals must be Licensed and Permanently Identified by a Microchip or other identification method acceptable to the Mayor before an ICAP can be issued.

(B) No Person shall have more than four Intact Companion Animals in any Household.

(C) The Household shall be secure against ingress by Companion Animals of the same species or egress of the Companion Animal for which the ICAP is issued. The Household shall meet the standards of a Secure Facility or a Secure Fence.

(D) If an Intact Companion Animal that has been issued an ICAP is Impounded twice by AACC, the ICAP will be automatically revoked and the Intact Companion Animal will be required to be Altered. If an Intact Companion Animal is Impounded twice and must therefore be Altered, the Permit Holder shall pay AACC to Alter the Companion Animal.

(E) If an ICAP Holder wants to breed an Intact Companion Animal or if a female Intact Companion Animal has been impregnated, the ICAP Holder must obtain a Litter Permit prior to the birth of the Litter.

(F) *Medical Waiver Certificate.*

(1) If Alteration of a Companion Animal would endanger the health of the Companion Animal due to age or Illness, a Veterinarian may complete a Medical Waiver Certificate stating the reasons why the Companion Animal should not be Altered.

(2) The Medical Waiver Certificate must include a description of the Companion Animal, including the Permanent Identification information.

(3) Upon receipt of a Medical Waiver Certificate, the Mayor may request a second opinion from a different Veterinarian.

(4) The Mayor may direct the AACC Veterinarian to examine any Animal listed in a Medical Waiver Certificate if there appears to be an abundance of Medical Waiver Certificates from one particular Veterinarian or Veterinary clinic.

(5) If there is a difference of opinion between the two Veterinarians as to whether the Companion Animal may be safely Altered, a written notice will be provided to the Owner indicating that a Medical Waiver Certificate has been rejected. The Owner will then be required to Alter the Animal or pay for an Intact Companion Animal Permit. The decision to deny a Medical Waiver Certificate due to a difference in professional opinions by two Veterinarians may be subject to appeal by the Owner.

(6) Upon the acceptance of a Medical Waiver Certificate by AACC, the Owner shall be issued an Intact Companion Animal Permit free of charge.

(7) Medical Waiver Certificates shall be valid for one year. Upon expiration of the Medical Waiver Certificate, the Owner shall be required to reapply for the Intact Companion Animal Permit.

(Ord. 18-2006)

The OIG reviewed the file for the animal in question. The documentation reviewed was from Chameleon, the AWD animal file management system. The documentation reflected:

- Animal was brought into the shelter on 10/30/2021
- On 10/30/2021, AWD-4 sent an email to the Director, which stated: *We have a special request that I am inclined to allow. The dog below was brought in as a 'stray' but was likely dropped off by the owner. Prior to coming into the facility, the person in custody of the dog was chatting with an APD officer in our parking lot. He is a member of APD's K-*

9 unit and recognized the person as someone he arrested in the past, and was interested in the dog as it is a (mixed) Dutch Shepard type dog. If a true owner does not come forward, the Officer would like to adopt. This is where the special request comes in. He would like the {sic} adopt the dog without sterilization. This is due to his desire to train the dog for protection work. The dog would be owned by him, and be a protection trained dog for his family. He doesn't have an issue sterilizing the dog-just wants to wait another year. This is due to hormones, prey drive and other training concerns that I can understand. IF we grant this request ADT-1 would be a good contact with APD's K- corps that we could take advantage of for future training of animals {sic} handlers. We have many time {sic} had their K-9 united "attack" staff. We put the staff in the bite suit so they are safe and then the dog bite {sic} them. Helps staff to understand the mechanics of getting bitten, and help them keep their head straight if it does happen. We can discuss more if needed on Tuesday-that is when the dog comes up for the priority hold he has placed.

- On 10/30/2021, the Director responded to the above email and stated "I'm fine with that".
- Animal was released on 11/02/2021 and notes indicate: Ok'ed to go home intact; microchip implanted; rabies given; rabies vaccinated; heartworm test is negative.
- On 11/2/2021 notes in system stated: ok to adopt animal to ADT-1. Verified qualified adopter; current pid in Chameleon; temp waiver signed, per AWD 4...dog leaving intact with permit.
- Notes in Animal Profile Notes & Memo section of Chameleon state "Admin has approved for this dog to be adopted and released INTACT. The adopter is with the APD K-9 unit and planning to train this dog as a personal protection pet for his family. He asked for this consideration due to concerns about sterilization prior to two years old possibility causing issues with- growth, drive and health. Given the advanced type of work the dog will be trained for, the adopter being a CITY employee, and the promise that this dog WILL BE sterilized when it turns two years old the dog will be released intact."

The OIG attempted to contact the individual who brought the animal in for surrender to the AWD shelter. The primary number was called on two occasions and the female who answered indicated that the number did not belong to the name listed and the secondary phone number is disconnected/not an active phone number.

A telephone interview was held with ADT-1 on December 29, 2021. ADT-1 stated that he was at the CITY gasoline pump located on the grounds of the AWD Eastside Shelter for CITY vehicles. He was in an unmarked police vehicle with another Law Enforcement Officer. At that time, a woman approached them and asked if they would like her dog. Due to her behavior, they ran a check on her name and then discussed the dog. The woman stated that here and a friend would both take care of dog but that she could no longer care for since she had been evicted from her apartment. The officers advised her to take dog in to AWD to surrender properly.

ADT-1 stated that he was interested in the dog and called his breeder to ask about it. The breeder advised to go get the dog and ask that she not be spayed at this time as doing so before their first heat can affect them when used for bite/protective purposes.

ADT-1 stated that he then went into AWD and the intake staff member advised that it was too late, as the dog had already been entered into the system. ADT-1 walked into the outtake doors, where administrative staff are located and talked to four staff before being directed to speak with AWD-3. AWD-3 stated that he would speak with Director about this and stated that they should start the paperwork for the waiver and the hold. ADT-1 paid the dues and was advised that the woman who surrendered would need to be checked (to make sure it was not stolen, or she did not have prior issues); that the dog would have to wait a few days to see if anyone picked up would need to be chipped and provided vaccinations. All of this and the fees would need to be paid for the waiver before the dog could be possibly released and released intact. ADT-1 stated that he completed the paperwork and paid the fees that day and waited for the four-day period.

ADT-1 stated that AWD-3 did ask if APD could provide bite training to staff, as that has been done with ADP and AWD years ago, but they lost their contact information. ADT-1 stated that he did not have that authority or access but would provide contact information to the person who did.

ADT-1 stated that he is required to bring the dog back in a year to be spayed and if he breeds her, that he could be fined thousands of dollars. He stated that he has no intent of breeding or not complying.

Video footage of the day in question was reviewed and demonstrated that the dog was surrendered by a woman. Moments later, the law enforcement officer can be seen entering the facility and speaking with staff.

AWD-3 was interviewed via Zoom on January 29, 2022. During the interview, AWD-3 detailed the process in which this animal was adopted. AWD-3 stated that ADT-1 asked to speak to a supervisor, which is when he became involved.

When asked about what prompted AWD-3 to allow this adoption to go through with an intact animal and if it was because it was the adopter was an APD officer, AWD-3 stated “yes. There is truth to that {that I did this because he was an APD officer}. I chose to trust an APD officer being a city employee and a police officer. He assured me that he would sterilize the pet in eight months. If you’re asking, would I do this for somebody else the answer would be no, I would not”.

AWD-3 stated there was no promise for anything from either the ADOPTER or himself for the intact release.

When questioned regarding the email between the AWD-3 and the Director whereas AWD-3 references training they could receive from APD, AWD-3 stated that they were provided this training numerous times in the past and he no longer had a contact. It was just a ‘mention for a good contact’ at APD.

Allegation Five: AWD does not provide adequate breastfeeding locations for staff member and making staff breastfeed in a room with animal feces or other staff present.

Administrative Instruction (AI) 7-53 Break Time for Lactation Background

The City of Albuquerque recognizes the health benefits of breastfeeding and supports accommodation of mothers who choose to utilize their own breast pump to express breast milk upon returning to work after maternity leave of absence.

This Administrative Instruction follows the break time requirement for nursing mothers in the Patient Protection and Affordable Care Act (PPACA), which took effect on March 23, 2010 (P.L. 111-148). PPACA also amended Section 7(r) of the Fair Labor Standards Act (FLSA) which regulates break time for nursing mothers.

This Administrative Instruction also aligns with New Mexico state law [NMSA 1978, Section 28-20-2 (Amended 2007)] which requires employers to provide flexible break time and a clean, private space, not a bathroom, in order to foster the ability of a nursing mother who is an employee to use a breast pump in the workplace. The effective date of AI 7 53 was May 31, 2017.

AWD-1 stated that a staff member who returned from maternity leave did state to HR, her supervisors, and the Director that upon her return, the room that utilized for lactation did have ‘droppings’ inside. While it was cleaned, she still expressed that she did not feel comfortable using this room. Her supervisors, HR and the Director all offered their offices to be utilized whenever necessary. Emails demonstrating this offering were forwarded to the OIG as support.

The nursing mother also stated that one of the supervisors in the AWD, AWD-3, advised her that she should pump ‘in her car’ among other places. AWD-2 stated that she spoke with AWD-3 regarding this comment, and the AI, and explained why this is not allowed. AWD-3 is also assigned the task of making a new, compliant, clean, and private room for nursing mothers.

AWD-2 stated that quite a few offices were immediately offered and that the nursing mother has been utilizing her supervisor’s office since this was brought to management’s attention AWD-2 also stated “This is an absolute priority. We will be cleaning out the file cabinets and removing a few, putting in a new refrigerator, microwave, and couch and will be painting and putting in new flooring. This will be done by 1/31/22. This space will completely convert into a quiet space for all staff to use as needed.”

OIG physically inspected the space, noting that it had been painted. The space is currently being furnished and a utility box is being caged.

Allegation Six: A high-level staff member is being ‘sued in a private lawsuit’ but the City is paying the legal fees.

The OIG conducted a review of NM Courts website to determine if there was a “private lawsuit” or legal matters to which the alleged staff member was a party. The OIG also conducted inquiries of Legal and Risk Management to determine if there was pending litigation. Pending litigation was identified. This allegation was not investigated due to the fact that this matter is pending litigation. OIG ordinance 2-17-6 precludes the Office of Inspector General from investigating matters of pending litigation.

General discussion with legal counsel revealed that under the Tort Claims Act, the City is obligated to defend employees, acting in the capacity of their job duties, named in a lawsuit.

Conclusions and Recommendations

Allegation One: The incident alleged to have been a mauling with ‘nothing done by the department’ is pending a claim with Risk Management, therefore, the OIG cannot investigate or address this matter

Allegations Two, Three & Five (in part): Based on the investigation, the AWD has demonstrated their attempts to combat the issues regarding rodents and pests and the heating and cooling of the facility. These issues are common in a facility such as this and management is working diligently to correct. The OIG recommends that continued communications with all levels of staff occur to ensure that staff are aware of these efforts. In addition, Risk Management is aware and working with staff to provide PPE and instructions on how to properly clean the facility daily. Lastly, the City approval of the expenditure and installation of a new HVAC system will allow for improvements in the ventilation and heating/cooling for the shelter. While these allegations which were brought forth are valid, the Department was aware and addressing each concern.

Allegation Four: The OIG’s investigation, relating to the specific allegations within this complaint, revealed that there was a violation of the HEART Ordinance in regard to the adoption of an intact canine. While this was approved by the Director, it is in violation of the HEART Ordinance, § 9-2-2-3, § 9-2-1-2, and § 9-2-3-6 in that this was permitted prior to the animal being adopted (as the animal was surrendered and, on a hold, when this was granted).

In addition, the allegation regarding the adoption of an intact canine demonstrated that AWD-3, based on email communications and statements made during an interview with the OIG, violated Personnel Rule and Regulations: *301.1 Duty to the Public (March 5, 2005)*, The City of Albuquerque is a public service institution. In carrying out their assigned duties and responsibilities, employees must always remember their first obligation is to the general public’s safety and well-being. This obligation must be carried out within the framework of federal, state, and local laws and *301.2 Professional Excellence*

Employees are encouraged to strive for personal and professional excellence as a means of keeping current on relevant issues and administering the public’s business with professional competence, efficiency, and effectiveness. AWD-3 allowed for an exception to an Ordinance, and while a special request and a waiver was obtained, this was done solely due to the fact that the individual was a COA employee. While the permit was obtained, the individual requesting the waiver being a COA employee should not have had any bearing on receiving the waiver as stated by AWD-3. The OIG did find the above-referred violations of City Personnel Rules and Regulations.

Allegation Five: The allegation regarding a violation of AI 7-53 for not providing an area for nursing mothers to pump was unsubstantiated. There was always an area designated and when feces were found in the room, it was immediately cleaned, and other locations were made available. The AWD department is currently renovating a new location for activities requiring privacy. The OIG recommends that this area be cleaned regularly using the protocols provided in the Risk Management review and training

Allegation Six: The allegations regarding the City defending a staff member in a ‘private lawsuit’ are unfounded. A tort claim was filed as a result of the individual carrying out assigned work duties while in the employ of the City of Albuquerque. The City routinely provides legal counsel to employees who are the subject of litigation through the course of their assigned work duties.

As a result of our investigation, OIG has made two (2) recommendations for improvement related to observations.

OBSERVATIONS AND RECOMMENDATIONS

Observation 1: Management violated the HEART Ordinance by allowing the adoption in an intact canine that was surrendered and not yet adopted. This was completed in violation of the HEART Ordinance due to the fact that the adopter was a APD officer.

Condition: During a review of the email correspondence between the Operations Manager and the Director, the file for the adopted animal and the interview conducted by the OIG, it was seen that the waiver for an intact animal was granted prior to the animal being adopted. In addition, during the interview process, the Operations Manager stated that benefit was afforded due to the requestor being a COA staff member and law enforcement officer.

Criteria: HEART Ordinance § 9-2-3-6 INTACT COMPANION ANIMAL PERMIT OR ICAP. Owners of dogs and cats over the age of six months that have not been Altered shall obtain an Intact Companion Animal Permit for those Animals.

HEART Ordinance, § 9-2-2-3 REQUIRED CARE AND MAINTENANCE FOR MAMMALS AND BIRDS KEPT AT BOARDING KENNELS, GUARD DOG SITES, ANIMAL SHELTERS INCLUDING THE ALBUQUERQUE ANIMAL CARE CENTER AND PET STORES (NON-RESIDENTIAL SITES):

(C) Required Alteration of Companion Animals. No Companion Animal owned by a person who lives in Bernalillo County, or the surrounding counties of Valencia, Sandoval, Cibola, Santa Fe and Torrance shall leave any Animal Shelter including AACC without having been Altered except as provided herein.

Personnel Rule and Regulations: *301.1 Duty to the Public (March 5, 2005)*, The City of Albuquerque is a public service institution. In carrying out their assigned duties and responsibilities, employees must always remember their first obligation is to the general public’s safety and well-being. This obligation must be carried out within the framework of federal, state, and local laws.

301.2 Professional Excellence: Employees are encouraged to strive for personal and professional excellence as a means of keeping current on relevant issues and administering the public’s business with professional competence, efficiency, and effectiveness.

Cause: In an attempt to allow a COA staff member to adopt an intact animal expeditiously management overlooked the HEART ordinance, its requirements, and its allowances for exceptions.

Effect: The HEART Ordinance put into place to by because spayed and neutered animals are less likely to run loose, bark excessively, and endanger the public and other animals. Most importantly, altered animals do not add to the animal overpopulation problem. Altered animals are less likely to end up at animal shelters that have no other option but to destroy those animals. In addition, companion animal over-population in the City endangers animals and human beings. Animal overpopulation requires taxpayers to bear the burden of caring for tens of thousands of unwanted or lost animals.

Recommendation: Staff be educated on the HEART Ordinance and the requirements contained within. In addition, staff review and acknowledge COA Personnel Rules and Regulations as it relates to Duties to the Public and maintaining public trust.

City Department Response:

AWD accepts the recommendations and will begin the process to educate and retrain our staff on the HEART Ordinance and COA Personnel Rules and Regulations and Code of Conduct as it relates to Duties to the Public and public trust.