**LETTER OF TRANSMITTAL**
**CF NO. 22-000472**

**ADJUDICATION**

**Public Complaint By:** Victim **City of Baldwin Park, CA**

The Complaint Investigation, CF No. 22-000472, resulted in seven allegations of misconduct against one Department employee:

Police Officer II Armando Avena — Pacific Patrol Division
Serial No. 42919

The allegations are listed below with recommendations for classification and supporting rationale.

**ALLEGATION 1. Complainant Victim alleged that on February 13, 2022, Officer Avena, while off -duty, operated his private vehicle while under the influence of alcoholic beverages.**

**CLASSIFICATION**

It is recommended that Allegations 1 be classified as **SUSTAINED.**

**RATIONALE**

The investigation confirmed without question that both Avena and [redacted], Complainant Victim, consumed alcoholic beverages throughout the evening. According to Victim, they had four beers and four shots of tequila. Avena acknowledged that he consumed the alcohol at multiple drinking establishments on the night of February 12, 2022, and early into morning of February 13, 2022. Avena was unable to recall the exact number and size of alcohol drinks he consumed nor the timeframe he spent at each establishment but remembered that both he and Victim finished all the drinks they had purchased. Avena admitted to driving his personal vehicle on two separate occasions that evening, immediately after consuming the alcohol. Although Avena believed he was not impaired to the point that he could not drive home, he also admitted he disregarded his level of intoxication because he was distracted by the thoughts of jealousy. Further evidence to support Avena's level of intoxication were statements provided by Victim herself. She believed Avena had only been "a little buzzed, not too intoxicated" throughout the evening. Victim indicated that she was concerned about Avena's reckless driving and feared for her safety when she was a passenger in the vehicle; so much so that she called [redacted] Relevant Party 2 as they drove, to share her fears.

Therefore, it is recommended that Allegation 1 be adjudicated as **SUSTAINED.**

**ALLEGATION 2. Complainant Victim alleged that on February 13, 2022, Officer Avena, while off -duty, physically assaulted Victim causing injuries that required medical treatment.**

**CLASSIFICATION**

It is recommended that Allegation 2 be classified as **SUSTAINED.**

**RATIONALE**

On February 12, 2022, Avena and Victim went out for drinks at a lounge in the City of Whittier. They consumed alcohol and became involved in an argument when Victim engaged in conversation with an unknown male patron. The couple mutually agreed to leave the lounge after their dispute. Despite having consumed alcohol, Avena made the decision to drive them home. When the couple arrived home, they continued their verbal argument.

During their argument, Avena pulled Victim's hair and dragged her into the bathroom. Avena forced her into the bathtub and turned on the shower head with cold water. He refused to let her out of the bathtub and punched her in the left side of her face while pulling her hair. Avena scratched, slapped, and choked Victim with both hands, causing visible injuries.

Avena denied the allegation that he physically assaulted Victim and explained her injuries that she sustained them herself and that any contact he had with her was merely unintentional.

Photographs and medical records documented the significant injuries from the incident and supported that they were sustained from a physical altercation. The criminal investigation was presented to the El Monte District Attorney's Office for review. The Deputy District Attorney filed one count of California Penal Code 273.5 (F)(2), Domestic Violence. Avena was scheduled to be arraigned on January 18, 2023.

Therefore, it is recommended that Allegation 2 be adjudicated as **SUSTAINED.**

**ALLEGATION 3. Complainant Victim alleged that sometime in January of 2022, Officer Avena, while off-duty, threatened to kill Victim.**

**ALLEGATION 4. Complainant Victim alleged that sometime in January of 2022, Officer Avena, while off -duty, unnecessarily broke her eyeglasses and cellphone, and forcibly pulled her hair.**

**CLASSIFICATION**

It is recommended that Allegations 3 & 4 be classified as **SUSTAINED.**

## RATIONALE

Victim claimed that Avena had threatened her in the past and remembered the last time occurring sometime in January of 2022. Victim had gone out to dinner with her friends and when she returned home Avena was upset that she had missed his phone call. Avena broke her glasses and pulled her hair. He threatened to kill her if she ever went out again. Victim believed his threats were real but never reported the incident to the police. Statements made by Relevant Party 2, , were noted as they relate to these allegations. RP 2 disclosed a pattern of behavior in which Victim would call RP 2 in the middle of the night when she argued with Avena. RP 2 would become so concerned for Victim's safety that she felt compelled to respond to their residence, only to be told by Victim that "things were under control," and her presence was no longer necessary. RP 2 described Avena as having a temper and "could explode really quickly" when he consumes alcohol. Adding, that during numerous past telephone conversations with Victim, Avena could be heard being verbally aggressive toward Victim. RP 2 believed Avena's anger was only geared toward Victim. Also concerning was Avena's tendency to take away Victim's phone to prevent her from communicating, citing that be believed he could do so because he "paid the bill."

In his compelled interview, Avena denied that he was involved in any other domestic violence incidents. However, this investigation revealed undisputable evidence Baldwin Park Police Department responded to the couple's home on October 24, 2020, at 0140 hours, for a Domestic Dispute investigation. Upon the officers' arrival, Avena was asleep. Victim woke him to advise of the police presence. In this incident, there was no evidence of a crime, a police report was not taken, and Victim chose to go to RP 2 's residence.

Therefore, it is recommended that Allegation 3 & 4 be adjudicated as **SUSTAINED.**

**ALLEGATION 5. Complainant Victim alleged that on unknown date and time, Officer Avena, while off -duty, pulled her hair during an argument.**

## CLASSIFICATION

It is recommended that Allegation 5 be classified as **SUSTAINED.**

## RATIONALE

Victim alleged that Avena pulled her hair on an unknown date during a verbal dispute. Although Victim was unable to provide detailed information regarding this confrontation, Avena has established a pattern of physical violence that includes pulling Victim's hair. An act in which probable cause was determined to exist for his arrest and subsequent filing of one count of California Penal Code 273.5 (F)(2), Domestic Violence. This fact, coupled with the witness's statements regarding Avena's "explosive" temper that is "geared" toward Victim when he consumes alcohol, substantiates the recommendation for this allegation.

Therefore, it is recommended that Allegation 5 be adjudicated as **SUSTAINED.**

**ALLEGATION 6. Complainant Victim alleged that on October 24, 2020, Officer Avena, while off -duty, threw a folding table at her direction, nearly striking her, during a domestic dispute.**

**ALLEGATION 7. Complainant Victim alleged that on October 24, 2020, Officer Avena, while off -duty, became involved in a domestic violence incident which resulted in the response of on-duty officers from the Baldwin Police Department.**

## CLASSIFICATION

It is recommended that Allegations 6 & 7 be classified as **SUSTAINED.**

## RATIONALE

On October 24, 2020, Victim and Avena became involved in a verbal argument. During the incident Avena, while intoxicated, became upset and threw a folding table in the direction of Victim, nearly striking her. Victim was in fear for her safety and called the Baldwin Park Police Department. Victim advised the responding officers of the incident but was unsure if a police report was ever taken.

The investigation determined Baldwin Park Police Department did respond to a Domestic Dispute radio call at the couple's residence. Unbeknownst to Avena, Victim called 911 due being in fear for her safety during a dispute with Avena. Despite no evidence of a crime and no police report taken at this incident, the statements made by RP 2 resonate. RP 2 disclosed the numerous incidents in which Victim called RP 2 when she argued with Avena. RP 2 would become so concerned for Victim's safety that she felt compelled to respond to their residence, only to be told by Victim that "things were under control," and her presence was no longer necessary. RP 2 described Avena as having a temper and "could explode really quickly" when he consumes alcohol. Adding that during past telephone conversations with Victim, Avena can be heard being verbally aggressive toward Victim

Therefore, it is recommended that Allegation 6 & 7 be adjudicated as **SUSTAINED.**

## DIGITAL IN-CAR VIDEO/BODY WORN VIDEO/AUDIO RECORDINGS

Due to this being an off-duty incident there is no BWV or DICV associated with this incident.

**ADMINISTRATIVE INSIGHT** – Police Officer II Armando Avena

**Employee Development Plan.**

None.

**Penalty.**

The allegations in this investigation are of a serious nature and go directly to the question of Avena's fitness to serve as a Law Enforcement Officer. Avena is accused of multiple incidents of domestic violence as well as alcohol abuse which led to domestic violence and possible DUI. If these allegations are sustained, it would disqualify Avena from being able to perform most of the duties of an officer due to disclosure requirements. The victim and principal witness are both credible and the evidence of criminal activity was strong enough that the Los Angeles County District Attorney filed felony criminal charges against Avena. If Avena was to continue serving as a police officer, any court case he was involved in would require the District Attorney or City Attorney to disclose the facts of this incident to the Defense which would seriously jeopardize any prosecution.

Furthermore, Avena's actions reflect poorly on the Department. If the Department were to fail to take forceful action in this case, it would appear that we do not take either domestic violence or DUI seriously. This could cause the public to lose confidence in the Department and lead to serious repercussions.

Therefore, it is recommended that the employee be order to a Board of Rights for termination consideration.

**Work History Analysis.**

Avena has been with the Department for six years and has worked at Wilshire, Custody Services and Pacific Division.

Avena's complaint history includes the following complaint:

22-003721 IAG/Pending

Avena has been involved in four NCUOF closed in policy.

Avena has been involved in two pursuits which are pending.

Avena has not been involved in any CUOF, collisions or civil litigation.

**Work Permit Review.**

A review of Avena's work permit history revealed that he currently has no work permits. No conflict of interest concerns, or impairment of performance or efficiency issues were identified.

**Actions Taken.**

None.

**APPROVED BY:**

MICHAEL APPLEGATE, Captain
Commanding Officer
Pacific Patrol Division