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October 20, 2015

Mayor Betsy Hodges, City Council Members and City Coordinator Spencer Cronk,

Attached is the City of Minneapolis Internal Audit Department's memorandum on the City's Complaint Protocol. The objective of this consultation was to gain an understanding of the risks involved in the process of handling complaints alleging employee misconduct, safety and respectful workplace violations.

We found that the City of Minneapolis (City) had a variety of strengths and opportunities in how it handles employee complaints. We did not find any high-risk control deficiencies; however, some coordination and collaboration within the teams handling these cases can improve the City's ability to conduct fair and timely investigations.

Internal Audit met with several different City employees and supervisors as well as Union representatives that have been involved in some form of the complaint process. Based on these interviews, we identified a concern that employees did not have a clear understanding of the complaint process and believe, in general, that the process was at least somewhat biased and unfair for both complainants and respondents.

The employee experience throughout the complaint process sends a message about the City's attitude towards conducting fair and timely complaint investigations. Consistent experiences, where the complainant and respondent feel that they are taken seriously and treated fairly, lead to complaints being reported much earlier<sup>1</sup> and are important to avoid negative experiences in a complaint investigation (beyond the stress and pressure of being involved in the matter itself). This experience starts with the intake process, which is a strong predication to an employee's experience throughout the entire investigation.<sup>1</sup> The remainder of the process should reflect the City's aptitude to handle timely and fair investigations.

The attached memorandum details four opportunity themes that could strengthen the City's complaint-handling process, increase employee satisfaction with the process, and lead to earlier reporting of incidents providing the City more time to adequately address an issue. Since the actions the City may take – or refrain from taking – create at least as much exposure for the City as the situation, incident, behavior, or relationship being complained about, the City has a stake in finding out the precise nature of the situation.<sup>1</sup>

Sincerely,

A handwritten signature in black ink that reads "Will Tetsell". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Will Tetsell, City Auditor

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<sup>1</sup> Fran A. Sepler, Finding the Facts – What Every Workplace Investigator Needs to Know. 2008



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**Date:** October 20, 2015  
**To:** Mayor Hodges, Council Members and Spencer Cronk  
**Re:** Complaint Protocol Consultation Memorandum

### **Background**

The City of Minneapolis (City) had various departments that handled ethics violations; anti-discrimination, harassment and retaliation (ADH&R) cases; workplace safety and security issues; and general workplace complaints that come through various channels. Allegations of misconduct (complaints) were generally handled by the departments that employed the subject of the complaint, with assistance from that department's assigned Human Resource Generalist (HRG). The Human Resource Investigative Unit handled all alleged violations of the City's ADH&R policy. The Minneapolis Police Department Internal Affairs investigated allegations of employment misconduct against its workforce, including assisting the HR Investigative Unit in complying with the requirements of the Peace Officers Discipline Procedures Act. Civil Rights investigated alleged civil rights violations. The City's Ethics Officer tracked complaints and reported the outcome, but investigations were conducted by individual City departments or outside contractors.

### **Scope & Approach**

Internal Audit conducted a review of the processes used in the operation and management of the internal complaint processes in the City. In order to gain an understanding of the processes, Internal Audit met with key stakeholders including the Ethics Officer, the HR Investigative Unit, the HR Generalist leader, an HR Assistant City Attorney, Union Representatives, Internal Affairs, Civil Rights and various Department Heads who were familiar with the process. This memorandum outlines the considerations identified based on the Complaint Protocol consultation, and recommendations for improving the complaint handling processes.

We did not look into specific complaints or the complaint process involving non City employees or officials. Also, processes related to disciplinary action appeals were not considered during the consultation.

We gained an understanding of the processes by looking through available documentation, reviewing relevant statutes and Civil Service rules, and meeting with key process owners. After meeting with these process owners we met with key stakeholders to get a greater sense of what is working well with the process and where opportunities for improvement exist.

## **Overview of the Complaint Process**

Numerous departments within the City handled the intake, routing and investigations for the various complaints made by employees. Complaints can range from informal instances of employee dissatisfaction to formal complaints regarding criminal activity, protected class, or City Ethics Code violations. Each team had different procedures, either formal or informal, for handling their cases with little centralization or consistent communication between the process owners. Documentation and resolution of complaints also varied by process owner.

## **Observations**

We identified opportunities in the complaint protocol and organized them into four themes to allow the process owners to collaborate on an ideal solution to the opportunities outlined below. The themes are administrative framework, oversight and reporting, communication and continual improvement.

### **I. Administrative Framework**

The way in which the City handles complaint cases is as distinct as the teams handling the workload. Although the HR Investigative Unit and Internal Affairs have a process overview document and related templates, other teams have less mature processes, which could lead to ineffective and inefficient practices, lack of institutional knowledge and mishandling of investigations.

Except for the HR Investigative Unit, the City did not have full-time dedicated investigators that handled the variety of cases. As such; there was a heightened need for more formal processes for each team to help ensure consistent, timely and fair investigation results.

#### **Administrative Framework Recommendations:**

- Develop written processes that guide the persons conducting the investigations through the essential components of the intake, management and resolution process, which include:
  - Administrative Framework
    - Intake
    - Analysis/Triage
    - Investigation/Informal Management
    - Record-keeping Protocol
    - Decision Maker(s)
    - Sanctions
    - Corrective Action
    - Workplace/Mediation/Dispute Resolution
    - Feedback
  - Planning
  - Scope and Purpose

- Neutrality
- Flexibility and Rigor
- Interviewing and Evidence Collection
- Credibility Assessment
- Findings of Fact
- Ensure the developed Interviewing and Evidence Collection processes adhere to best practices for seizing and handling electronic evidence, including computer hard drives used for forensic analysis. Refer to the resource list in the Appendix.
- Create a tool for teams that currently lack one, to log complaint data for tracking, triage and reporting purposes.

## **II. Oversight & Reporting**

Complaints were filed several different ways. Although there were select individuals who saw most complaints relative to their position within the process, there was not one specific individual or group of individuals that had visibility of all of the City's complaint cases in order to ensure that cases were assigned, made progress on, and that themes from the complaints were identified and acted on. Oversight and reporting could also inform leadership on how resource intensive the complaint process was, and where teams lacked resources to adequately resolve complaints. Refer to example oversight report links within the Appendix.

### **Oversight & Reporting Recommendations:**

- Identify or establish a designated individual or group of individuals to have visibility to, and an understanding of, all outstanding and resolved complaints. This could be accomplished with ongoing meetings between the leaders of each team handling complaints.
- Establish reporting to track, address and report employee misconduct to City leadership. This reporting should be used to understand trends in employee misconduct in order to take proactive steps to prevent, detect and correct misconduct; to eliminate opportunities for fraud, waste and abuse; to address unsafe working conditions or facilities; and to ensure adequate resources are allocated to handling the complaints and related workload.
- Develop a sustainable process to report losses to the State Auditor's Office.

## **III. Communication**

Complaint cases were handled differently throughout the City; however, there was no forum for the complaint-handling teams to collaborate, ensure cases are appropriately triaged, establish consistent practices for handling cases, identify areas for improvement, assist where independence may be impeded and share best practices.

### **Communication Recommendations:**

- Establish a freestanding collaborative meeting for the complaint-handling teams, and develop specific objectives and defined roles and responsibilities for the group. This group could be charged with identifying and implementing best practices, informing City leadership of the City's exposure based on the outstanding complaints, generating periodic reporting to City leaders and developing institutional knowledge of how cases and subsequent actions are managed.

- Identify the leaders and representatives from the complaint-handling teams that will attend the standing meetings and be responsible for meeting the objectives set out by the group.

#### **IV. Continual Improvement**

In order for the complaint process to be effective, it requires competent investigators, an administrative framework (especially important when investigators are less experienced), consistent communication, and adequate reporting and response. To achieve this, the teams involved should focus on continual improvement across all teams and practices.

##### **Continual Improvement Recommendations:**

- Establish procedures for conducting defensible investigations to resolution. The three above recommendations should facilitate this process, but should not be considered all-inclusive steps to establishing a sufficient investigation process.
- Determine gaps in each of the different processes throughout the City and design a plan to address them.
- Identify and implement best practices through benchmarking, training and research.
- Establish a network of capable investigators so as to avoid preconceptions or obvious bias.

## Appendix

### Resources:

Finding the Facts – What Every Workplace Investigator Needs to Know  
[www.findingthefacts.com](http://www.findingthefacts.com)

Best Practices for Seizing Electronic Evidence  
<http://www.crime-scene-investigator.net/SeizingElectronicEvidence.pdf>

Searching and Seizing Computer and Obtaining Evidence in Criminal Investigations  
<http://www.justice.gov/sites/default/files/criminal-ccips/legacy/2015/01/14/ssmanual2009.pdf>

### Example Reports:

<http://www.sfcontroller.org/modules/showdocument.aspx?documentid=6494>

<http://www.toronto.ca/legdocs/mmis/2015/au/bgrd/backgroundfile-76326.pdf>

<http://portal.cityofsacramento.org/Auditor/Reports/Whistleblower-Activity>

<http://www.sandiego.gov/auditor/reports/hotline.shtml>