CITY OF PALO ALTO OFFICE OF THE CITY AUDITOR

March 28, 2017

The Honorable City Council
Palo Alto, California

Discussion of the Fraud, Waste, and Abuse Hotline

Recommendation

The Office of the City Auditor recommends that the Policy and Services Committee review and recommend to the City Council acceptance of the:

1. Proposed changes to the City Employee Fraud, Waste, and Abuse Hotline Administration Policy.
2. Provide direction to the City Auditor regarding methods for advertising the hotline to City employees, including providing information regarding what is an appropriate use of the hotline and the type of questions or concerns that should be addressed through another means.

Background

Fraud, waste, and abuse hotlines are a mechanism through which employees or others can report suspected misuse or mismanagement of an organization's resources. In July 2012, the City Council approved an 18-month pilot program to establish an employee-only fraud, waste, and abuse hotline, to be administered by the City Auditor's Office. In May 2013, the City Council adopted the "City Employee Fraud, Waste, and Abuse Hotline Administration Policy" ("Hotline Policy") and approved continuing the program beyond the pilot phase.

A third-party vendor administers the City's hotline. It receives calls, creates a case file for each call, and forwards the case to the Hotline Review Committee (City Auditor, City Manager, and City Attorney) for review. Callers can access the hotline 24/7/365, and can provide their name or choose to remain anonymous. The committee reviews the general case information for each call and determines whether it falls within the purview of the hotline. If it does, the committee makes a decision, based on the information provided in the case file, about whether to investigate the case. The committee may refer cases that do not fall within the purview of the hotline to the appropriate department or the Human Resources Department for review and action.

The City Manager's Office issued the Palo Alto Employee Ethics Policy in 2016 and provided training to all City employees regarding the policy. The policy, available to employees on both the City's intranet and internet pages, was developed in response to a recommendation in the audit of Employee Ethics Policies, published in 2008. It states that employees who have questions about the Code of Ethics or the appropriateness of an action should consult with their supervisor, department head, City Manager, or City Attorney's Office, or that they may use the City's confidential Employee Ethics Hotline if anonymity is necessary.

Discussion

Since its inception, the fraud, waste, and abuse hotline has received 34 calls: 11 were various versions of a single issue, and 2 were related to another single issue, meaning that we received calls regarding 23 separate issues. The City investigated 14 of the 23 issues, and two were substantiated. In one of the substantiated cases, corrective action was taken by providing relevant training to employees, and in the other substantiated case, the employee resigned.

<u>Survey of Other Jurisdictions and Best Practices</u>

Because of the number of repeat calls for a single issue and because many of the calls received do not relate to fraud, waste, or abuse, the Office of the City Auditor conducted a survey of other local governments that have a hotline to identify what others do to minimize the time spent on frivolous or malicious calls, or calls received simply because callers do not know where else to call. We received 39 responses to our survey, and several of the respondents gave us copies of their hotline policies. We also did other research to identify best practices. Key indicators from the survey respondents were:

- Most organizations do not receive a large number of calls each year – 2 of the organizations did not say how many calls they received; 9 received less than 10 calls, 14 received 11-50 calls, 8 received 51-100 calls, and 6 received more than 100 calls.
- 34 of the jurisdictions, including all 6 that received more than 100 calls, accept calls from both employees and others outside of the organization (e.g., residents and contractors). Although the investigation and substantiation rates varied, accepting calls from people other than employees generally led to both a higher number of investigations and more complaints being substantiated.
- The jurisdictions that had the highest substantiation rates routinely communicated the purpose of the hotline to their employees and their citizenry. Common practices included:
    - Providing information at new employee orientations
    - Hanging posters at key points in their facilities, and updating the posters at least annually
    - Providing information on employee pay stubs, generally two times per year
    - Conducting annual training and presentations for employees
    - Providing information in an all-employee email
    - Providing information on dedicated internet or intranet pages
    - Publishing articles in newsletters

    - Informing citizenry through notices on utility bills, booths at community events, and advertisements on the city/county television channel
    - Publishing reports of the number of cases received, the number investigated and their outcomes, and providing descriptions of the cases that were substantiated

Several of the hotline policies we received from other jurisdictions also included examples of the types of activities that constitute fraud, waste, or abuse and gave examples of the types of activities that should be referred elsewhere.

The Office of Inspector General for the Department of Homeland Security published a report in 2010, “Recommended Practices for Office of Inspector General Hotlines,” which acknowledges the importance of educating employees and contractors about hotlines. It recommends, in addition to the types of communications listed above, giving presentations at agency meetings and developing informational brochures to reduce the number of misdirected complaints. Some agencies also develop wallet cards to give to employees and others.

The California State Auditor developed a Frequently Asked Questions document, posted on its website, that provides information about who and what the State Auditor can and cannot investigate and provides examples of improper conduct that falls within the State Auditor’s authority for investigation. It also provides tips for filing a complaint to ensure that the State Auditor has sufficient information to make a determination about whether a complaint warrants investigation.

<u>Proposed Changes to the Fraud, Waste, and Abuse Hotline Administration Policy</u>
The changes that the Office of the City Auditor has proposed for the Fraud, Waste, and Abuse Hotline Administration Policy include:

- Clarified that although the hotline only receives calls from employees, employees should report activities that directly relate to the City of Palo Alto (e.g., if a contractor committed fraud as part of its contract with the City).
- Clarified that the hotline is not only for anonymous reporting.
- Added language that the Hotline Review Committee may recommend using an external investigator in some cases.
- Changed the language in the Case Management and Case Dissemination sections to reflect that only the Hotline Review Committee has access to the case management system and that it will review completed investigation reports before closing out a case in the case management system. In the past, some department directors closed out a case that was referred to them but did not put sufficient information in the case notes to determine the adequacy of the investigative process and whether the designated outcome was appropriate. Because the Office of the City Auditor is responsible for reporting to Council the number of cases received, their status, and the outcome, it is important that the City Auditor have a reasonable level of assurance regarding the adequacy of the investigative process and its outcome.

- Updated who the alternate members of the Hotline Review Committee would be in the event that a complaint is made against one of the primary members.
- Clarified the language regarding the investigative process.
- Added language for the Office of the City Auditor and Human Resources Department to coordinate to identify the types of cases that are appropriate for the hotline vs. the Human Resources Department's new employee advice line.
- Changed the language regarding how the Office of the City Auditor reports on hotline cases received to clarify that the reporting is done through the Office of the City Auditor's regular quarterly reports rather than as an Information Item. Reporting through the quarterly reports provides Council the opportunity to have discussion regarding the case summaries.
- Added a section to inform employees that disciplinary action may be taken when a case is substantiated. This was a common provision in other organizations' hotline policies.
- Added a section on advertising the hotline.

<u>Advertising the Hotline</u>
Based on the survey input and research, it is clear that it is important to advertise the hotline to educate potential complainants on the purpose of the hotline and to thereby reduce the number of misdirected complaints. Although the Office of the City Auditor has not established an education program regarding the hotline, the City Auditor gave a presentation to a City department last year regarding the Office of the City Auditor's functions and activities, which included a discussion of the hotline. About two weeks later, the hotline received a call that was investigated and substantiated, which may be an indicator of the effectiveness of educating employees about the hotline.

In a 2016 article, the Association of Certified Fraud Examiners listed several factors that lead to an ineffective hotline reporting process, which included employees not understanding the system. The article also listed some tips for building a trusted hotline reporting program and culture, including training and awareness and ongoing communication. The factors that lead to hotline ineffectiveness and those that lead to hotline effectiveness both support the importance of outreach and communication to those who are expected to potentially use the hotline.

Conclusion

Tips continue to be the most common way that organizations become aware of fraud, waste, or abuse. Hotlines provide a mechanism through which employees or others can report fraud, waste, or abuse that they are aware of, particularly if they wish to remain anonymous. Two critical factors for hotline success are having effective policies and procedures for administering the hotline and creating awareness of the hotline for those who would potentially use it. The proposed changes to the Fraud, Waste, and Abuse Hotline Administration Policy and developing awareness of the hotline are both expected to improve the effectiveness of the City of Palo Alto's hotline.

Respectfully submitted,

Harriet Richardson

Harriet Richardson
City Auditor

ATTACHMENTS:

- Attachment A: Ethics Hotline Administration Policy - Revised March 2017 (PDF)
- Attachment B: City Employee Fraud, Waste, and Abuse Administration Policy - March 2013 (PDF)

Department Head: Harriet Richardson, City Auditor

City Employee
Fraud, Waste, and Abuse Hotline Administration Policy

Table of Contents

1. Objective

The primary objective of the City of Palo Alto Fraud, Waste, or Abuse Hotline ("hotline") is to provide an anonymous mechanism for employees to report fraud, waste, or abuse ~~by City employees~~that directly relates to the City of Palo Alto.

City employees who have specific information that other City employees have engaged in fraud, waste, or abuse are encouraged to report such information through the normal chain of command, which includes their immediate supervisor, manager, department head, Human Resources, and the City Manager's Office (CMO); or to the Office of the City Auditor. However, there may be certain circumstances where an employee believes it is necessary to remain anonymous or prefers for other reasons to report directly through the hotline. The hotline provides a~~n anonymous~~ method whereby employees can choose to remain anonymous ~~of~~when reporting such incidents over the phone to a third-party interviewer or via an anonymous web form. The City believes that anonymity is a last resort and should only be used after other reporting methods have been attempted or when the employee has a reasonable good faith belief that it is necessary. Frivolous anonymous calls can undermine the effectiveness of the hotline. All reports made regarding fraud, waste, or abuse should be made seriously and with due professional care.

2. Structure

The hotline is hosted by an independent, third-party provider (vendor) contracted by the City. The vendor provides the option for callers to provide information over the hotline anonymously. The vendor issues an incident report for each call and submits the incident reports for review and referral. The vendor provides offsite hotline coverage 24/7/365 and live interviewers who obtain the information deemed necessary to verify and process the complaints. This information is then transcribed into an incident report that is housed in ~~a~~ the vendor-hosted case management system.

3. Hotline Review Committee

The Hotline Review Committee ("Committee") is composed of the following members or their designees: the City Auditor, the City Manager, and the City Attorney. The Committee meets as needed to review all activity related to the hotline. The objectives of the Committee are to review all incident reports, determine whether an incident report should be investigated, assign incident reports to the appropriate department~~, or~~ unit, or external investigator for investigation, ensure that incident reports that are assigned for investigation are adequately investigated, and address any trends in activity or weaknesses in City policies that require corrective action to be taken. Duplicate reports or reports that do not suggest fraud, waste, or abuse may be closed without further investigation.

4. Case Management

The vendor's online case management system allows for all hotline reports to be recorded, updated and tracked in one centralized system to ensure that all reports are addressed appropriately and that the outcomes are consistent. All incident reports are maintained in the secured case management system. ~~and are periodically updated with the status of the investigation by t~~The specified department case manager~~ment users and~~ should periodically update the Office of the City Auditor regarding the status of the investigation. ~~Case management users include staff of t~~The Office of the City Auditor ~~who act as~~ administers~~rators of~~ the case management system~~,~~ and updates it to reflect the investigation status and outcomes.~~one or more members of management from each department who will be assigned to respond to incidents within their departments~~. User access is limited to ~~cases assigned to them~~the Hotline Review Committee members and the hotline administrator in the Office of the City Auditor.

~~Additionally, the CMO will be provided certain administrative functions in the case management system in order to create a check-and-balances system to ensure that the OCA is not investigating reports that could be a conflict of interest for OCA employees.~~

5. Case Dissemination

Within 24 hours after entering a call as an incident report and logging it into the case management system, the vendor sends the report electronically to the appropriate contacts at the Office of the City Auditor for preliminary review. The Office of the City Auditor will triage the report to determine if immediate action may be necessary. If immediate action appears necessary, the Office of the City Auditor will contact the Hotline Review Committee, which will decide whether to initiate an investigation. Incident reports requiring immediate action include those involving possible fraud, waste, or abuse by City executives, or other incidents based on the judgment of the Hotline Review Committee. All other cases will be referred to the Hotline Review Committee ~~in their scheduled meetings~~to review. These reviews should occur within five business days.

If an incident report involves one or more members of the Hotline Review Committee, those individuals shall be excluded from any decisions or activities related to the review and/or investigation of that incident report. If this occurs, an ~~Senior Performance Auditor,~~ Assistant City Manager~~, and/~~or ~~Senior~~ the ~~Assistant City~~Principal Attorney~~, if needed,~~ will act as the third member~~s~~ of the Hotline Review Committee to ensure there ~~are a minimum of two officials providing~~is appropriate oversight of the review and investigation of the incident report.

Because the members of the Hotline Review Committee are appointed by the City Council, the hotline will not accept incidents involving members of the City Council. Employees reporting these types of complaints will be referred to the California Fair Political Practices Commission, the District Attorney's Office, or other appropriate outside agency, depending upon the nature of the complaint.

~~Each department will have one or more dedicated contacts who will receive the incident report from the Hotline Review Committee, disseminate it to the appropriate staff within their department, and access the report in the case management system to either assign it to another user in their department to manage the case or make updates as to the case disposition themselves. The dedicated department contact will complete the preliminary case closure before~~The Hotline Review Committee will determine the best approach for investigating an incident report and an appropriate timeline for completing the investigation. When the Hotline Review Committee determines that an incident report should be forwarded to a department for investigation, it will be forwarded to the department director, who may investigate it himself or herself, or assign it to another person in the department for investigation. Hotline complaints that allege criminal activity will be forwarded to the Palo Alto Police Department for consideration for investigation in consultation with the Hotline Review Committee. Investigations should include techniques appropriate for the alleged fraud, waste, or abuse, such as interviews with witnesses, technical experts, and the subjects of the investigation; and examination of documents such as files, e-mails, contracts, vouchers, payroll records, and reports.

The director is responsible for keeping the Hotline Review Committee updated regarding the status of the investigation. When the investigation is completed, the director will forward a copy of the completed report to the Hotline Review Committee, which will review~~s~~ the report to determine that the investigative steps were appropriate and that the recommended outcome is sufficiently supported and formally close~~s~~ ~~an~~ the incident report. The Hotline Review Committee may decline to investigate complaints that do not fall within the definition of fraud, waste, or abuse, but may refer them to a department for other follow up.

As the hotline administrator, the Office of the City Auditor will be responsible for:

- Disseminating incident reports to the appropriate department or external investigator for investigation, as determined by the Hotline Review Committee, and providing the timeline for completing the investigation.
- Monitoring the status of all incident reports referred to other departments, ~~or~~ units, or an external investigator for investigation and their outcomes.
- Conducting an independent investigation of reported incidents when appropriate.
- Monitoring the timeliness of department responses based on timeframes established by the Hotline Review Committee.
- Closing incident reports in the case management system after the Hotline Review Committee's final review.

6. Coordination With Human Resources

The Hotline Review Committee will coordinate with the Human Resources Department to identify the types of issues that are more appropriately categorized as "personnel" issues and should be referred to the Human Resources Department for resolution rather than investigated through the hotline process.

~~6~~7. Escalation

An incident is designated for escalation if there is an imminent or significant threat of actual harm to employees, customers, or operations. When a report is designated for escalation by the vendor, they shall immediately call the appropriate designated contact(s) provided by the City. Escalation contacts include the members of the Hotline Review Committee and their designees.

~~7~~8. Reporting

The case management system allows for customized reporting of incidents reported to the hotline. ~~Users may sort information and run reports on cases assigned to them, and administrators may create reports on case dispositions, status, corrective action taken, and other trends.~~ The Office of the City Auditor will provide a ~~quarterly~~ summary report of complaints received by the hotline to the City Council ~~as an Information Item~~in the Office of the City Auditor's quarterly reports. ~~The form and content of the quarterly report shall be at the discretion of the City Auditor, will be presented to and reviewed by the Hotline Review Committee, and~~ The summaries will generally include:

- The number of reports made to the hotline and their status (i.e., open or closed).

- The general types of complaints received.
- Any trends in the types of complaints received.
- A~~ny~~ general description of corrective action taken by City management as a result of a complaint received.

9. Discipline

If an investigation concludes that fraud, waste, or abuse occurred, the City Manager, or designee, shall take appropriate corrective action to resolve the issue and prevent recurrence. Corrective action could include, for example, disciplinary action, training, new or revised procedures, reorganization or reassignments, referrals to outside agencies (such as the District Attorney, Fair Political Practices Commission, or other enforcement agency),or amendment or termination of contracts.

10~~8~~. Prohibition Against Retaliation

No department or employee shall take any adverse action or retaliate against any employee for making a report to the hotline (except as provided in “Filing of Malicious Complaints,” below). Additionally, no reprisal shall be taken against any employee who participates in any manner in the investigation and disposition of a hotline incident report.

This Prohibition Against Retaliation is a statement of City policy. It is not intended to and shall not create a private right of action enforceable in state or federal court on behalf of any person, against the City or any employee, for equitable relief or damages.

11~~9~~. Terms and Definitions

Under California law, the term "fraud, waste, or abuse" means any activity by a local agency or employee that is undertaken in the performance of the employee's official duties, including activities deemed to be outside the scope of his or her employment, that:

- Is in violation of any local, state, or federal law or regulation relating to:
  - Corruption
  - Malfeasance
  - Bribery
  - Theft of government property
  - Fraudulent claims
  - Fraud
  - Coercion
  - Conversion
  - Malicious prosecution
  - Misuse of government property
  - Willful omission to perform duty
- Is economically wasteful
- Involves gross misconduct

12~~0~~. Security of Incident Reports and Associated Reports, Working Papers, and Other Related Documents

- Incident reports, associated reports, working papers, and other documents referring to or describing incident reports, which are received either through the hotline, by mail, or e-mail shall remain confidential to the extent allowed by law.
- Incident reports and associated case numbers shall only be provided to individuals who are responsible and essential for conducting the investigation or reviewing of the incident report. These individuals are required to hold such information in confidence, to the extent allowed by law.
- The confidentiality of all incident reports, associated reports, working papers, and other documents shall be maintained at all times by the City Auditor and investigating/reviewing departments, who shall take such measures as they determine are reasonable and necessary to maintain the confidentiality of such information and documents, to the extent allowed by law.
- City Staff responsible for reviewing/investigating incident reports can make investigative disclosures of information contained in an incident report to the extent necessary for obtaining additional information relevant to the investigation.
- The Hotline Review Committee is authorized to determine the distribution or release of any incident reports, associated reports, working papers, other documents and correspondence associated thereto, in accordance with the California Public Records Act and other applicable law.
- The City Council may, at their discretion, authorize the release of information relative to substantiated incident reports.

13~~1~~. Custody of Investigation Documents

The City Auditor shall maintain custody of incident reports, associated reports, working papers, emails, and all other pertinent information regarding any investigations of incident reports. Other parties involved in the investigation shall also retain their own documentation. All such documents shall be retained and or disposed of in accordance with applicable document retention policies of the City.

14~~2~~. Public Requests for Information Regarding All Incident Reports

All requests for information concerning any incident report shall be directed to the City Auditor for a response. The City Auditor, with the guidance of the Hotline Review Committee, shall respond to such requests as permissible and in accordance with applicable state law and City policy, rules and regulations.

Departments shall notify the City Auditor of any Public Records Act or other requests for information or documents regarding incident reports received through the City Auditor or the hotline.

15~~3~~. Filing of Malicious Complaints

The City will not tolerate malicious complaints. The processing of a complaint/concern requires staff time and attention regardless of its appropriateness. Complaints/concerns will not be considered malicious merely because they are determined to be unsubstantiated. A malicious complaint/concern is one that is made in bad faith or with knowledge that the complaint entirely lacks any factual basis.

Malicious complaints may result in disciplinary action in accordance with applicable City policies and procedures, up to and including termination from employment.

16. Advertising the Hotline

The Office of the City Auditor will periodically communicate to City staff information regarding the hotline. The communication may be in the form of printed materials, including posters, flyers, and/or wallet cards, or via a citywide email to employees. The Office of the City Auditor should educate employees regarding the types of issues that are appropriate for the hotline and those that should be addressed in another manner, such as through the Human Resources Department.

City Employee Fraud, Waste, and Abuse Hotline Administration Policy

Table of Contents

1. Objective

The primary objective of the City of Palo Alto Fraud, Waste, or Abuse Hotline (“Hotline”) is to provide an anonymous mechanism for employees to report fraud, waste, or abuse by City employees.

City employees who have specific information that other City employees have engaged in fraud, waste, or abuse are encouraged to report such information through the normal chain of command which includes their immediate supervisor, manager, department head, Human Resources, and the City Manager’s Office (CMO). However, there may be certain circumstances where an employee believes it is necessary to remain anonymous. The Hotline provides an anonymous method of reporting such incidents over the phone to a third-party interviewer or via an anonymous web form. The City believes that anonymity is a last resort and should only be used after other reporting methods have been attempted or when the employee has a reasonable good faith belief that it is necessary. All reports made regarding fraud, waste, or abuse should be made seriously and with due professional care.

2. Structure

The Hotline is hosted by an independent, third-party provider (vendor) contracted by the City. The vendor provides the option for callers to provide information over the Hotline anonymously. The vendor issues an Incident Report for each call and submits the Incident Reports for review and referral. The vendor provides offsite hotline coverage 24/7/365 and live interviewers who obtain the information deemed necessary to verify and process the complaints. This information is then transcribed into an Incident Report, housed in a case management system.

3. Hotline Review Committee

The Hotline Review Committee (“Committee”) is composed of the following members or their designees: the City Auditor, the City Manager, and the City Attorney. The Committee meets as needed to review all activity related to the Hotline. The objectives of the Committee are to review all Incident Reports, determine whether an Incident Report should be investigated, assign Incident Reports to the appropriate department or unit for investigation, ensure that Incident Reports that are assigned for investigation are adequately investigated, and address any trends in activity or weaknesses in City policies requiring corrective action to be taken. Duplicate reports or reports that do not suggest fraud, waste, or abuse may be closed without further investigation.

4. Case Management

The online case management system allows for all Hotline reports to be recorded, updated and tracked in one centralized system to ensure that all reports are addressed appropriately and that the outcomes are consistent. All Incident Reports are maintained in the secured case management system and are periodically updated with the status of the investigation by the specified department case management users and the OCA. Case management users include staff of the OCA who act as administrators of the case management system, and one or more members of management from each department who will be assigned to respond to incidents within their departments. User access is limited to cases assigned to them.

Additionally, the CMO will be provided certain administrative functions in the case management system in order to create a check-and-balances system to ensure that the OCA is not investigating reports that could be a conflict of interest for OCA employees.

5. Case Dissemination

After a call has been entered as an Incident Report and logged into the case management system by the vendor, the report is sent electronically to the appropriate contacts at the OCA for preliminary review within 24 hours. The OCA will triage the report to determine if immediate action may be necessary. If immediate action appears necessary, the OCA will contact the Hotline Review Committee who will decide whether to initiate an investigation. Incident Reports requiring immediate action include those involving possible fraud, waste, or abuse by City executives, or other incidents based on the judgment of the Hotline Review Committee. All other cases will be referred to the Hotline Review Committee in their scheduled meetings.

If an Incident Report involves one or more members of the Hotline Review Committee, those individuals shall be excluded from any decisions or activities related to the review and/or investigation of that Incident Report. If this occurs, a Senior Performance Auditor, Assistant City Manager, and/or Senior Assistant City Attorney, if needed, will act as members of the Hotline Review Committee to ensure there are a minimum of two officials providing oversight of the review and investigation of the Incident Report.

Because the members of the Hotline Review Committee are appointed by the City Council, the Hotline will not accept incidents involving members of the City Council. Employees reporting these types of complaints will be referred to the California Fair Political Practices Commission, the District Attorney's Office, or other appropriate outside agency, depending upon the nature of the complaint.

Each department will have one or more dedicated contacts who will receive the Incident Report from the Hotline Review Committee, disseminate it to the appropriate staff within their department, and access the Report in the case management system to either assign it to another user in their department to manage the case or make updates as to the case disposition themselves. The dedicated department contact will complete the preliminary case closure before the Hotline Review Committee reviews and formally closes an Incident Report.

As the Hotline Administrator, the OCA will be responsible for:

- Monitoring of all Incident Reports referred to other departments or units for investigation, and their outcomes,
- Conducting an independent investigation of reported incidents when appropriate,
- Monitoring the timeliness of department responses based on timeframes established by the Hotline Review Committee, and
- Closing Incident Reports after the final review of the Hotline Review Committee.

6. Escalation

An incident is designated for escalation if there is an imminent or significant threat of actual harm to employees, customers, or operations. When a report is designated for escalation by the vendor, they shall immediately call the appropriate designated contact(s) provided by the City. Escalation contacts include the members of the Hotline Review Committee and their designees.

7. Reporting

The case management system allows for customized reporting of incidents reported to the Hotline. Users may sort information and run reports on cases assigned to them, and administrators may create reports on case dispositions, status, corrective action taken, and other trends. The OCA will provide a quarterly summary report of complaints received by the Hotline to the City Council as an Information Item. The form and content of the quarterly report shall be at the discretion of the City Auditor, will be presented to and reviewed by the Hotline Review Committee, and will generally include the following:

- The number of reports made to the Hotline,
- The general types of complaints received,
- Any trends in the types of complaints received, and
- Any corrective action taken by City management as a result of a complaint received.

8. Prohibition Against Retaliation

No department or employee shall take any adverse action or retaliate against any employee for making a report to the Hotline (except as provided in “Filing of Malicious Complaints,” below). Additionally, no reprisal shall be taken against any employee who participates in any manner in the investigation and disposition of a Hotline Incident Report.

This Prohibition Against Retaliation is a statement of City policy. It is not intended to and shall not create a private right of action enforceable in state or federal court on behalf of any person, against the City or any employee, for equitable relief or damages.

9. Terms and Definitions

Under California law, the term, "fraud, waste, or abuse" means:

Any activity by a local agency or employee that is undertaken in the performance of the employee's official duties, including activities deemed to be outside the scope of his or her employment, that:

- Is in violation of any local, state, or federal law or regulation relating to:
    - Corruption,
    - Malfeasance,
    - Bribery,
    - Theft of government property,
    - Fraudulent claims,

  - Fraud,
  - Coercion,
  - Conversion,
  - Malicious prosecution,
  - Misuse of government property, or
  - Willful omission to perform duty,

- Is economically wasteful, or
- Involves gross misconduct.

10. Security of Incident Reports and Associated Reports, Working Papers, and Other Related Documents

- Incident Reports, associated reports, working papers, and other documents referring to or describing Incident Reports, which are received either through the Hotline, by mail, or e-mail shall remain confidential to the extent allowed by law.
- Incident Reports and associated case numbers shall only be provided to individuals who are responsible and essential for conducting the investigation or reviewing of the Incident Report. These individuals are required to hold such information in confidence, to the extent allowed by law.
- The confidentiality of all Incident Reports, associated reports, working papers, and other documents shall be maintained at all times by the City Auditor and investigating/reviewing departments, who shall take such measures as they determine are reasonable and necessary to maintain the confidentiality of such information and documents, to the extent allowed by law.
- City Staff responsible for reviewing/investigating Incident Reports can make investigative disclosures of information contained in an Incident Report to the extent necessary for obtaining additional information relevant to the investigation.
- The Hotline Review Committee is authorized to determine the distribution or release of any Incident Reports, associated reports, working papers, other documents and correspondence associated thereto, in accordance with the California Public Records Act and other applicable law.
- The City Council may, at their discretion, authorize the release of information relative to substantiated incident reports.

11. Custody of Investigation Documents

The City Auditor shall maintain custody of Incident Reports, associated reports, working papers, emails, and all other pertinent information regarding any investigations of Incident Reports. Other parties involved in the investigation shall also retain their own documentation. All such documents shall be retained and or disposed of in accordance with applicable document retention policies of the City.

12. Public Requests for Information Regarding All Incident Reports

All requests for information concerning any Incident Report shall be directed to the City Auditor for a response. The City Auditor, with the guidance of the Hotline Review Committee, shall respond to such

requests as permissible and in accordance with applicable state law and City policy, rules and regulations.
Departments shall notify the City Auditor of any Public Records Act or other requests for information or documents regarding Incident Reports received through the City Auditor or the Hotline.

13. Filing of Malicious Complaints

The City will not tolerate malicious complaints. The processing of a complaint/concern requires staff time and attention regardless of its appropriateness. Complaints/concerns will not be considered malicious merely because they are determined to be unsubstantiated. A malicious complaint/concern is one that is made in bad faith or with knowledge that the complaint entirely lacks any factual basis. Malicious complaints may result in disciplinary action in accordance with applicable City policies and procedures, up to and including termination from employment.