

City of
SACRAMENTO

Office of the City Auditor

WHISTLEBLOWER PROGRAM PROCEDURES

As of December 29, 2017

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I. Policy Background

In February 2012, the City Auditor released *Report 2012-01, Assessment for Establishing a Whistleblower Hotline*. That report analyzed Whistleblower programs in three other large California cities and assessed the potential impact of such a program in Sacramento.

In March 2012, Sacramento City Council directed the Office of the City Auditor (Office) to implement a Whistleblower Program to receive and investigate allegations of possible City-related fraud, waste, and abuse (FWA).

The following procedures aim to ensure accountability by creating a consistent and logical method for receiving and tracking allegations. These procedures describe how the Office of the City Auditor will handle these allegations. Additionally, the procedures lay out a risk-based approach for using the City Auditor's limited resources to prioritize and investigate the allegations that could place the City of Sacramento at the greatest risk.

II. Philosophy

It is the intention of the City Auditor to maintain a Whistleblower Program consistent with the best practices of responsible government. As fraud, waste, and abuse represent threats to good governance, a well-managed Whistleblower Program serves both the public trust and the best interests of the City.

III. Authority and Responsibilities

California Government Code 53087.6 authorizes cities to establish "a whistleblower hotline to receive calls from persons who have information regarding fraud, waste, or abuse by local government employees," and establishes the City Auditor's authority to conduct investigative audits pursuant to fraud, waste, and abuse allegations.

Sacramento City Code Chapter 2.18 establishes the Office of the City Auditor (2.18.010), provides for auditor access to all "information, property, and personnel relevant to the performance of an audit" (2.18.050), and prohibits coercion relative to auditor examinations or audits (2.18.060).

City of Sacramento Whistleblower Protection Policy requires the City to "take all appropriate steps to thoroughly evaluate any allegations of improper government action...", serves to "1) encourage employees to report information concerning any allegedly improper governmental action or subsequent retaliation by the City's officers or employees by providing them protection against retaliation, and 2) reinforce the expected values and behaviors of City officials and employees because of their role as guardians of the public trust and resources."

IV. Confidentiality

California Government Code 53087.6 and the *City Whistleblower Protection Policy* require confidentiality of Whistleblower investigations. It is the policy of the City Auditor to respect and maintain confidentiality of all persons involved in a Whistleblower investigation to greatest extent possible, as allowed by law. Due to the highly sensitive nature of whistleblower allegations, the City Auditor only releases reports related to substantiated allegations; in other words, all complaints and investigations are kept confidential until and unless the investigation substantiates City-related fraud, waste, and/or abuse.

Upon completion of an investigation which substantiates an allegation, an investigative summary will be prepared for inclusion in the Whistleblower Activity Report. State law mandates that, even in the event of a substantiated allegation, personnel information is to remain confidential.

Auditors should take care to protect whistleblower case information, including judicial use of email, informing interviewees of the confidential nature of investigations, and, to the maximum extent possible, protecting the identity of the whistleblower and the subject.

V. Public Records Requests

The Office will manage Whistleblower-related Public Records Requests in a manner consistent with the *City of Sacramento's Public Records Request Policy* and *California Government Code 53087.6*.

The City Auditor will act as the Public Records Act (PRA) Coordinator.

Consistent with the City's *Public Records Request Policy*, the City Auditor will not normally release Whistleblower-related information pursuant to a *Public Records Act* request directly to the requesting party; public records releases should be transmitted through the Office of the City Clerk.

Requestors should make PRA requests through the Office of the City Clerk. Consistent with the *Public Records Request Policy*, staff members who receive a request directly should ask the requestor to utilize the City's Online Public Record Request Portal. If a requestor declines to complete an online form, staff should complete a form on behalf of the requestor. Written requests, emailed requests, or voicemail requests should be forwarded to the Office of the City Clerk. This process ensures requests are appropriately processed through the City Clerk.

If the Office of the City Clerk does not have access to the records being requested, they will request the record from the City Auditor using the Public Records Workflow System.

When releasing Whistleblower investigation records pursuant to a *Public Records Act* request, the City Auditor should also forward the redacted records being released to the Mayor, City Councilmembers, the City's Public Information Officer, and affected City department(s).

Some records and information generated by the Office the City Auditor are confidential and must be protected from disclosure as outlined by *California Government Code 53087.6* and the City's *Whistleblower Protection Policy*. Due to the obligation of the Office to protect confidential information, the City Auditor will review and manage all record requests from the City Clerk.

VI. Allegations Covered by the Office of the City Auditor

The Whistleblower Hotline promotes good government by providing City employees and members of the public with a way to report allegations of fraud, waste, and abuse.

California Government Code 53087.6 defines fraud, waste, or abuse, in the context of a Whistleblower program, as, "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"

Fraud

The Association of Certified Fraud Examiners defines occupational fraud as "the use of one's occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization's resources or assets." Some examples of possible fraud include theft of City funds or property, accepting or soliciting a bribe or kickback, falsifying payroll information, falsifying financial records to hide theft, submitting a false voucher, or using City property for non-City business.

Waste

Waste can be intentional or unintentional and can involve unnecessary or extravagant City expenditures or misuse of City resources.

Abuse

Abuse is the use of an employee's position in the City to obtain personal gain for that employee or for someone else, such as a family member or friend.

The above definitions are meant to provide guidance, and are not meant to cover all types of allegations that will be investigated.

VII. Receiving Allegations

The Whistleblower Hotline consists of a telephone hotline and an online reporting interface, both of which are available 24 hours a day, 7 days a week. Allegations made through the Hotline result in a case being created in the online Whistleblower management system. The Hotline and management system are managed by a third-party contractor, not City employees, which provides an additional level of independence and anonymity.

City staff or members of the public may submit allegations by calling the toll-free number, **1-888-245-8859**, or by completing the online form located at <https://www.reportlineweb.com/cityofsacramento>. In addition, individuals may submit allegations directly to the City Auditor or the Auditor's staff in person, in writing, over the phone, or via email. Any individual who files a complaint will have their identity kept confidential. The individual's identity will be protected to the extent permitted by law unless the individual waives confidentiality in writing.

The general procedures below should be followed when receiving allegations.

Whistleblower Hotline Reports

The Hotline generates a notification email to Auditor staff when a new allegation is submitted. These emails contain no information other than a reference number.

- 1. The Whistleblower Program Manager assigns the case to an auditor.**
- 2. The auditor opens the case by:**
 - a. Reviewing the case in the online system.
 - b. Entering non-confidential case information into the *Whistleblower Intake Log*.
 - c. Creating a digital casefile on a secure flash drive.
 - d. Creating a hard copy casefile.
- 3. If the allegation potentially involves City-related FWA, the auditor investigates.**
- 4. If the allegation does not appear to be City-related FWA, the auditor should:**
 - a. Attempt to contact the complainant using any contact information available to ascertain any City-related FWA.
 - b. If no City-related FWA can become apparent, refer the case to the appropriate agency (if applicable) and inform the complainant of the referral (if possible).
 - c. Document the referral.
 - d. Close the case.

Reports Made Directly to Office Staff via Telephone or In Person

City staff or members of the public may contact an auditor in person to make a complaint. Due to several different factors (workload, availability, task restrictions, etc...) the auditor receiving

the complaint may not ultimately be the investigating auditor. The following procedures only ensure the complaint is appropriately received and processed; case assignment remains the purview of the Whistleblower Program Manager and the City Auditor. The staff member receiving the allegation should:

- 1. Gather enough information to begin an investigation (who/what/when/where/how).**
 - a. Determine the subject of the allegation to ensure the complainant is reporting to the correct entity, (is it City-Related FWA?).
 - b. Provide the complainant with contact information for the appropriate referral agency if the allegation is clearly not City-Related FWA.
- 2. Explain the Whistleblower Protection Policy.**
 - a. Discuss the complainant's preference regarding anonymity.
 - b. If appropriate, ask the complainant to provide their contact information for follow-up purposes.
- 3. Initiate a new report via the Whistleblower Hotline.**
 - a. This should be completed with the complainant to ensure completeness and to provide the complainant with a confirmation number and password.
- 4. Enter non-confidential case information into the *Whistleblower Intake Log*.**
- 5. Brief the Whistleblower Program Manager.**
 - a. Refer to the *Whistleblower Hotline Procedures* as outlined above.

Reports Made Directly to Office Staff via Voicemail, e-Mailed, or Mailed

City staff or members of the public may make an allegation in writing or via voicemail. Due to several different factors (workload, availability, task restrictions, etc...) the auditor receiving the information may not ultimately be the investigating auditor. The following procedures only ensure the complaint is appropriately processed; case assignment remains the purview of the Whistleblower Program Manager and the City Auditor. The staff member receiving the information should:

- 1. Listen to the voicemail/read the email or mail.**
 - a. Hard copy letters should be scanned to a secure investigations flash drive (not to the server) for the digital casefile.
 - b. Emails should be converted to PDF for the casefile.
- 2. Initiate a new report via the Whistleblower Hotline.**
- 3. Enter non-confidential case information into the *Whistleblower Intake Log*.**

4. Brief the Whistleblower Program Manager.

- a. Provide all hard copies/digital information gathered to the Program Manager.
- b. Refer to the *Whistleblower Hotline Procedures* as outlined above.

Screening for Merit and Relevance

As the Whistleblower Hotline is open to the public at large, it welcomes an expansive range of complaints. During the interview process, therefore, it is important to consider how the allegation may relate to fraud, waste, or abuse by the City or its employees. To do this, staff should think broadly about how the provided statements could tie into a related matter. From a cursory review, allegations may appear to lack merit or relevance due to a myriad of reasons. However, upon a thorough and professional evaluation, they may lead to an issue that puts the City at risk and should be investigated.

Reports that lack merit and relevance, as evidenced by insubstantial statements, should be documented and closed as 'Dismissed: Does Not Appear to Have Merit' in the *Whistleblower Intake Log* and Whistleblower management system in order to preserve Auditor resources. These necessary steps protect the integrity of the Whistleblower Hotline and efficiently preserve resources for matters that have merit and relevance.

VIII. Prioritizing Allegations

The *Whistleblower Intake Log* and Whistleblower management system require Auditor staff to rate the priority of complaints as "low," "medium," or "high." This method helps prioritize investigations by identifying overall risk to the City. Any allegations rated "medium" or "high" should be presented to the City Auditor or relevant Auditor staff as soon as practicable. Those rated "low" can be discussed during periodic hotline discussions. The following guidance applies when rating allegations:

High Priority

Reasons why allegations may be considered high priority include a safety concern, losses to the City of Sacramento more than or equal to \$75,000, criminal activity resulting in a loss of at least \$400, high-level involvement, collusion of multiple wrongdoers, a major department-wide issue, or need for immediate action to stop a potential major issue. High-priority items should be discussed immediately. In addition, addressing these items could take priority over other investigations and audits at the City Auditor's discretion.

Medium Priority

Allegations in this category could include a loss to the City of Sacramento more than or equal to \$25,000, abuse of authority, medium to low-level employee involvement, minor department-wide issues, or patterns of small problems that could become serious when summed.

Low Priority

Allegations in this category could include a loss to the City less than \$25,000, isolated instances of time abuse, wasteful practices that would lead to limited gains in efficiencies if corrected, or allegations that lack credibility and evidence. The office would aim to investigate items in this list, but may not do so because of limited resources or if the complaint is insubstantial due to a lack of sufficient information to warrant an investigation. However, if the same or similar issues were reported multiple times, low priority items may become a higher priority.

IX. Allegations Covered by Other City Agencies

The intent of establishing a Whistleblower program is not to replace or limit other reporting options, as some allegations are more appropriately investigated by other City agencies. For example, many Human Resources-related issues should be reported to the appropriate Human Resources staff; labor grievances, discrimination allegations, and workers' compensation claims should be reported using City procedures established for that purpose. Similarly, complainants may need to report legal issues to the City Attorney's Office or code enforcement issues to the Community Development Department.

As appropriate, the Auditor's Office will refer cases to other City agencies. However, it may still be appropriate for auditors to gather initial information to better understand the issues involved.

City Referrals

- **Risk Management for workers' compensation information:**
916-808-5741
<http://www.cityofsacramento.org/HR/Divisions/Risk-Management/Workers-Compensation>
- **Risk Management for environmental health and safety programs like OSHA and DOT compliance:**
916-808-5278
<http://www.cityofsacramento.org/HR/Divisions/Risk-Management>
- **Risk Management for liability claims:**
Insurance: 916-808-5556
Liability Claims: 916-960-1012
<http://www.cityofsacramento.org/HR/Divisions/Risk-Management/Risk-Administration/Claim-Form>
- **Labor Relations for union grievance procedures:**
<http://www.cityofsacramento.org/HR/Divisions/Labor-Relations/Grievance-Process>
- **Office of Civil Rights for the grievance procedures alleging discrimination based on disability:**
916-808-5270
<http://www.cityofsacramento.org/HR/Divisions/Office-of-Civil-Rights>
- **Other Human Resources related issues:**
<http://www.cityofsacramento.org/hr/>

- **City of Attorney:**
916-808-5346
<http://www.cityofsacramento.org/CityAttorney>
- **Code Enforcement for neighborhood code, housing and dangerous buildings, business compliance, landscape requirements, rental house standards, and anti-graffiti:**
311 (*inside City limits*)
916-264-5011 (*outside of City limits*)
<http://www.cityofsacramento.org/Information-Technology/311>
- **Police for non-emergencies:**
916-264-5471
<http://www.sacpd.org/>

X. Allegations Covered by Non-City Agencies

By nature of Sacramento being the State Capital as well as the County Seat, the City is home to a large number of Federal, State, and County agencies. As a result, some complaints made to the City Whistleblower Hotline will be partly or solely related to government agencies external to the City of Sacramento.

Auditors who determine an allegation involves an external government entity or employee will refer the complaint in whole or in part to the most appropriate investigative body. Complaint investigation services are available at most government agencies and may include Fraud, Waste, and Abuse Whistleblower programs, internal affairs programs, judicial oversight authorities, offices of professional responsibility, etc... Some common referral agencies are noted below.

Auditors will document all referrals in the casefile, and will make good faith efforts to notify the complainant of the reason for referral and provide referred agency contact information.

Common Non-City Referrals

Jurisdiction	Organization	Reporting	Methods
County of Sacramento	County Auditor-Controller	Audit Fraud Hotline	916-874-7822 TDD callers 800-735-2929 Auditor Fraud Hotline/County of Sacramento 700 H St, Room 3650 Sacramento, CA 95814
State of California	Bureau of State Audits	Whistleblower Hotline	800-952-5665 Investigations/Bureau of State Audits 555 Capitol Mall, Suite 300 Sacramento, CA 95814 http://www.bsa.ca.gov/hotline/filecomp
Health, Safety, and other complaints against employers	US Department of Labor (OSHA)	Whistleblower Hotline	800-321-OSHA (6742) https://www.whistleblowers.gov/

Consumer Complaints Against a Business	California Office of the Attorney General	Comment/ Complaint Form	https://oag.ca.gov/contact/consumer-complaint-against-business-or-company
Consumer Complaints Against a Business	Better Business Bureau	Complaints	https://www.bbb.org/consumer-complaints/file-a-complaint/get-started
California Attorneys	State Bar of California	Complaints	800-843-9053 http://www.calbar.ca.gov/Attorneys/LawyerRegulation/FilingaComplaint.aspx
California Judges	Commission on Judicial Performance	Complaints	Commission on Judicial Performance 455 Golden Gate Avenue, Suite 14400 San Francisco, California 94102 http://cjp.ca.gov/file_a_complaint/

XI. Special Circumstance

Complaints Made Against City Council

The Office of the City Auditor may receive allegations about elected officials. As the Office does not generally have the authority to audit the Mayor and City Council without their request, allegations involving these officials shall be discussed with the City Auditor immediately. The City Auditor, Audit Staff, and other City officials, if necessary, will discuss how to evaluate these types of allegations.

Complaints Made Against Office of the City Auditor Staff

Allegations against members of the Office of the City Auditor should be made directly to the City Auditor and not through the Whistleblower Hotline. As all Office staff have access to the Whistleblower management system, the subject of the allegation would likely see the complaint and the complainant information; confidentiality and anonymity could not reasonably be maintained.

In the event a complaint is made directly to a staff auditor regarding other Office staff, the individual receiving the allegation should immediately notify the City Auditor; Office staff are expected to keep allegations against other auditors confidential and not inform the subject of the allegation. The City Auditor and other Office staff who become aware of the complaint will evaluate the allegation, possibly with the advice of other City staff and Officials, to determine if an investigation shall be conducted within the Office or by an entity outside the Office.

Complaints Made Against the City Auditor

Allegations against the City Auditor him or herself should be made directly to City Councilmembers and not through the Whistleblower Hotline; as noted above, the City Auditor has access to all allegations in the Whistleblower management system. In the event a complaint against the City Auditor is made directly to a staff auditor, the individual receiving the allegation should discuss it with another staff member and possibly seek guidance from staff or officials outside of the office to determine how to proceed.

Sacramento City Auditor

1/17/2018

Appendix 1. Sacramento Office of the City Auditor Contact Information

SACRAMENTO OFFICE OF THE CITY AUDITOR
HISTORIC CITY HALL
915 "I" STREET, 2ND FLOOR
SACRAMENTO, CA 95814

WEBSITE: [HTTP://WWW.CITYOFSACRAMENTO.ORG/AUDITOR/](http://www.cityofsacramento.org/auditor/)

Audit Staff

JORGE OSEGUERA (CITY AUDITOR)
OFFICE: (916) 808-7270
JOSEGUERA@CITYOFSACRAMENTO.ORG

LYNN BASHAW (ASSISTANT CITY AUDITOR)
OFFICE: (916)808-7278
LBASHAW@CITYOFSACRAMENTO.ORG

FARISHTA AHRARY (SENIOR AUDITOR)
OFFICE: (916) 808-7266
FAHRARY@CITYOFSACRAMENTO.ORG

CHAU CAO (SENIOR AUDITOR)
OFFICE: (916) 808-7285
CCAO@CITYOFSACRAMENTO.ORG

JORDAN SWEENEY (AUDITOR)
OFFICE: (916) 808-2310
JPSWEENEY@CITYOFSACRAMENTO.ORG

SEAN ARNOLD (AUDITOR)
OFFICE: (916) 808-5341
SARNOLD@CITYOFSACRAMENTO.ORG