



CITY OF PALO ALTO OFFICE OF THE CITY AUDITOR

June 5, 2017

The Honorable City Council
Palo Alto, California

Policy and Services Committee Recommendation to Accept the Revised City Fraud, Waste, and Abuse Hotline Administration Policy

The Office of the City Auditor recommends acceptance of the revised City Fraud, Waste, and Abuse Hotline Administration Policy. At its meeting on March 28, 2017, the Policy and Services Committee approved and unanimously recommended that the City Council accept the proposed changes to the City Fraud, Waste, and Abuse Hotline Administration Policy with the addition of “or contractors” in section 1, Objective, line one of the second paragraph. That paragraph should now read, “City employees who have specific information that other City employees or contractors 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.”

The Policy and Services Committee minutes are included in this packet.

Respectfully submitted,

Harriet Richardson
City Auditor

ATTACHMENTS:

- Attachment A: Discussion of the Fraud Waste and Abuse Hotline (PDF)
- Attachment B: Policy and Services Committee Transcript Excerpt (March 28, 2017) (PDF)

Department Head: Harriet Richardson, City Auditor



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.

Survey of Other Jurisdictions and Best Practices

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

- o Informing citizenry through notices on utility bills, booths at community events, and advertisements on the city/county television channel
- o 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.

Proposed Changes to the Fraud, Waste, and Abuse Hotline Administration Policy

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.

Advertising the Hotline

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,

A handwritten signature in black ink that reads "Harriet Richardson". The script is cursive and fluid.

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	3
2. Structure.....	3
3. Hotline Review Committee	3
4. Case Management.....	3
5. Case Dissemination	4
6. Coordination With Human Resources Regarding Its Advice Line.....	5
7. Escalation.....	5
8. Reporting.....	5
9. Discipline	5
10. Prohibition Against Retaliation	6
11. Terms and Definitions	6
12. Security of Incident Reports and Associated Reports, Working Papers, and Other Related Documents	6
13. Custody of Investigation Documents	7
14. Public Requests for Information Regarding All Incident Reports.....	7
15. Filing of Malicious Complaints.....	7
16. Advertising the Hotline.....	7

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 ~~an anonymous~~ method whereby employees can choose to remain anonymous ~~or 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. F 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 management 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 administrators 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 ~~members~~ 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 reviews the report to determine that the investigative steps were appropriate and that the recommended outcome is sufficiently supported and formally closes 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.

67. 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.

78. 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.
- [Any 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.

108. 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.

119. 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:
 - o Corruption
 - o Malfeasance
 - o Bribery
 - o Theft of government property
 - o Fraudulent claims
 - o Fraud
 - o Coercion
 - o Conversion
 - o Malicious prosecution
 - o Misuse of government property
 - o Willful omission to perform duty
- Is economically wasteful
- Involves gross misconduct

120. 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.

131. 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.

142. 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.

153. 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	3
2. Structure	3
3. Hotline Review Committee	3
4. Case Management	3
5. Case Dissemination	4
6. Escalation	5
7. Reporting.....	5
8. Prohibition Against Retaliation	5
9. Terms and Definitions	5
10. Security of Incident Reports and Associated Reports, Working Papers, and Other Related Documents.....	6
11. Custody of Investigation Documents	6
12. Public Requests for Information Regarding All Incident Reports	6
13. Filing of Malicious Complaints	7

CITY OF PALO ALTO*Fraud, Waste, and Abuse Hotline Administration Policy***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

CITY OF PALO ALTO*Fraud, Waste, and Abuse Hotline Administration Policy*

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.

CITY OF PALO ALTO*Fraud, Waste, and Abuse Hotline Administration Policy***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,

CITY OF PALO ALTO*Fraud, Waste, and Abuse Hotline Administration Policy*

- 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

CITY OF PALO ALTO*Fraud, Waste, and Abuse Hotline Administration Policy*

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.



POLICY AND SERVICES COMMITTEE TRANSCRIPT

Special Meeting
Tuesday, March 28, 2017

Chairperson Wolbach called the meeting to order at 6:05 P.M. in the Community Meeting Room, 250 Hamilton Avenue, Palo Alto, California.

Present: DuBois, Kniss arrived at 6:09 P.M., Kou, Wolbach (Chair)

Absent:

Oral Communications

Chair Wolbach: Ok, so for Oral Communications, do we have any speakers? It looks like not.

Agenda Items

1. Discussion of the Fraud, Waste, and Abuse Hotline.

Chair Wolbach: Should we move on to our one and only action item of the day which is a discussion of the fraud, waste, and abuse hotline. Harriet, do you want to start us off?

Harriet Richardson, City Auditor: Sure. Good evening Mr. Chair and Members of the Committee. Harriet Richardson, City Auditor. I'm here to discuss the fraud, waste, and abuse hotline protocols. You have in front of you a copy of the current protocols and a copy of the proposed changes in track changes. Then an At Places memo to change one title of – the title of Section 9 from discipline to corrective action. We changed the language in the paragraph but then we didn't change the title, so that's everything you have in front of you. Plus, the PowerPoint that I'll be going through. I went through the protocols. I made some edits and I coordinated with the City Attorney's office and the City Manager's office on these changes. I think we are in good shape for the direction we're headed with them. For a little bit of background, the Council adopted the current Hotline Administration Policy along with the permanent hotline project in May 2013, after a 10-month pilot period. We have a third-party vendor that we contract with, that administers our hotline; [NAVEX Global]. It's available to employees only. External parties can't use it and it's available 24-hours a day, 7-days a week, 365-days a year. The original pilot program was based on an audit that was done by one of my predecessors back in 2008, on City of Palo Alto Employee Ethic Policies. That resulted in both the hotline pilot project and subsequently, the permanent placement of the hotline. Also, the City

TRANSCRIPT

manager's office developed an Employee Ethics policy, which all employees got training on last year. When callers want – when someone wants to make a call to the hotline, they have the option of calling in anonymously or they can provide their name. Most people do prefer to call in anonymously but we have had some people provide their name. When a call comes in, it goes to the third-party administrator. Then they take the information about the call from the employee and what their complaint is. They try to get as much information about the issue as they can and then it goes into a case management system. Then we get an email letting us know that there's a new case. Then we can log into the system and look at the case. We have a Hotline Review Committee, which consists of me, the City manager and the City attorney. The three of us get together when a new case comes in. We look at the case and decide – first of all, does it meet the—does the description fall under the definition of fraud, waste and abuse. If it does, is there enough information to investigate it and then we would make a decision to investigate. If it doesn't fall within the – oh, here's Liz. I'll wait a second before I continue. If it doesn't fall within the definition of fraud, waste and abuse, we would decide either that – to send a response that it doesn't fit within the protocols of the hotline or we might refer it out to a department for review and action, which we have done in some cases. We don't ask for a response back in those cases, but if it's investigated, then we would go through the process of investigating and reporting whether the outcome was either substantiated or not substantiated. Since the hotline's inception in 2012, there've been 34 calls received. Six of those were received during the pilot period. One of the primary reasons we wanted to propose some changes is, the main reason is that there's been a lack of clarity among employees about what the purpose of the hotline is. So, the majority of the calls that we receive don't actually relate to fraud, waste or abuse. A lot of them are just general disagreement with a management decision or something that we might classify as a personnel issue or they just don't fit within the definition of fraud, waste and abuse. Several of those 34 calls that we received were actually multiple versions of single issues so we received 11 calls regarding one issue and 2 calls regarding another issue. That narrowed it down to 23 actual issues. Fourteen of those were investigated but only 2 of those were substantiated. The other reason that we wanted to revisit the protocols is that we had previously – when we had something that we wanted to have investigated, we would send it out to the departments and say please look into this and send us back the outcome. We would give them access to the case management system just for that case but what they were doing is they put information in – not substantiated, closed and we didn't get enough information to really know what they had done to investigate the case and whether if it really should have been closed. My office is responsible for reporting on the outcomes of the cases and I wasn't feeling comfortable that I could report and support

TRANSCRIPT

that it really should have been closed. Moving forward, that's one of things that I'm addressing in some of the changes. Before we decided – before I decided what to look at actually changing, I did a survey of other jurisdictions around the country and actually, Canada too, about how they use hot – their hotlines. It is common of the hotlines to be placed in the auditor's office. I actually received quite a bit – a few responses. Thirty-nine jurisdictions responded and from those I was able to identify a lot of common themes about what they do to inform employees about their hotline. Actually, 35 of those 39 jurisdictions allow calls from outside their employee base also, so residents can call in, contractors can call in. They – most of the jurisdictions have expanded it beyond just employees. One of the things that I identified was that most of them do some sort of education of their employees to inform them what the hotline is and how to use it. The most common things are that they provide information at their new employee orientations. Several of them create posters that they hang around facilities that have information about what fits with in the hotline and they update those posters at least annually. just to kind of refresh employees view of what they are seeing and just a little reminder. Some of them create and distribute brochures or little wallet cards. This is an example of a little wallet card that you might see some jurisdictions prepare. Then some of them put information on employee pay stubs. Just a little notice on there about what the hotline is and call if they see fraud, waste or abuse. They might do that generally two times a year. Some jurisdictions actually have a mandatory annual training or presentation that they do. Some do online training where they have a training video that people can log into their system and then they can actually see that and they are required to look at that periodically so that they can be refreshed about what the fraud, waste and abuse hotline is. Other jurisdictions provide information in all-employee emails and several jurisdictions have dedicated internet or intranet pages. Some of the common things I saw when actually looking at those are sections with frequently asked questions so that employees can go in and see what's the definition of fraud, waste and abuse. What types of things do we investigate? What types of things don't we investigate? How do we handle a complaint once we receive it? A lot of common information that people would have questions about to help them understand what the purpose of the hotline is and what happens to their complaint once it's received. [Video recording ended]

Ms. Richardson: [Video picked up mid-sentence] ... City Manager and the Principle Senior Attorney. It seems like it made more sense to have a higher level of official like that rather than a senior performance auditor. If the – particularly, if the reason that we would be substituting, would be that the complaint would be against CAO. I felt like that made more sense to update

TRANSCRIPT

that. Then we also -- as I mentioned earlier, where we had issues with not being able to really tell what was happening with cases if -- when we gave access to the case management system -- limited access to the case management system so that they would submit the report to us, which the protocols already called for but it wasn't happening. Instead of giving direct access, we'd say that we want you to investigate this. Give us the report and then we can review the report and make a decision as the Hotline Review Committee about the outcome of it. In Section 6, that's a new paragraph about coordinating with Human Resources so we added that whole section so that when -- there's always been somewhat of a question about what's a personnel issue? I think that we have an opportunity to really sit down and define what's fraud, waste and abuse. We put some high-level words in the protocols but we really don't have definition around those or examples and I think coordinating with Human Resources about what's appropriate for HR review versus what's appropriate for fraud, waste and abuse. That can help us with actually managing what HR does and what we do through the hotline. In Section 9, we added a paragraph about corrective action. This is the one that you have the At Places memo for. The title says discipline but we changed it to corrective action and just indicating that there may be some sort of corrective action taken if a case is substantiated. Then we also added a new section, Section 16 about advertising the hotline. I think that is one of the key things for helping us get the right kinds of calls and helping employees understand that the hotline is there when it should be used and what's appropriate to go through another avenue. Some of the things that I think would be help -- would be really helpful -- I think that we have right now, we have the perfect opportunity to improve the hotline because Human Resources is currently beta testing an advice line for employees where employees can call in and get advice through Human Resources for certain issues and I think it's the opportunity for us to say, this is the type of thing that goes through the hotline. This is the type of thing that goes through the advice line. They can always call the advice line and if it's something they would say is fraud, waste and abuse, we can refer it back to -- they can refer it back to the hotline. If it's something that comes through the hotline, then we have the opportunity to say, you can -- this isn't a hotline issue but you can go to the HR advice line and get some question answered. I really think the timing is good right now to be able to start working on that. I also think having some advertising materials, again, that would say, this is what the hotlines for. This is what the advice line is for and that would really help employees understand the purpose of both and help us get hotline appropriate cases into the hotline. Personal management types of cases into the advice line. Then, as I said, we can just refer people to the advice line as appropriate when needed. Just a couple of key conclusions. Through my research, one of things that I've really seen is that education is the key to a successful hotline. I don't think you can ever expect -- I don't know that you

TRANSCRIPT

really want to generate a lot of calls. You want to think of it as sort of insurance, an extra line of defense against fraud, waste and abuse so that it's there if people see it and you want to encourage them to report when they see something. You also don't want to encourage them – you want to discourage them from using the hotline as a gripe line, which is somewhat what it has become. That addresses all of the things I had. What I am asking for tonight is just some direction about whether or not you want us to do some advertising and if so, some direction about what that would be. Then the motion to forward this to the full Council for approval. I can take any question that you have.

Chair Wolbach: Liz, you have a question? (Inaudible)

Vice Mayor Kniss: Harriet, this has existed now for not that long of time. Is there something in here about what it's costing us or am I just not seeing it?

Ms. Richardson: I didn't put the cost in there. We actually just – I negotiated the cost down because we pay a per employee fee and it was running about \$3,000 a year and I don't know where that originally...

Vice Mayor Kniss: \$3,000 an employee?

Ms. Richardson: No, \$3,000 total but it's based on a per employee number and so we recently got the bill for the next year and I saw the number on there and said I don't know where this employee count came from but it was way overstated by a few hundred. I worked with them and got the count down so it was about – I want to say it was about \$1,200 for this past year but we lowered the price quite a bit by correcting the employee count. That's typical – the typical way those hotlines service agencies contract – is that it's a per employee charge.

Vice Mayor Kniss: Why didn't you – this was a controversial program to start with. I have a feeling that it's one of those that once you start it, you could never stop it because who's going to say that we want to stop the fraud, waste, and abuse hotline. I do remember that there was a good deal of discussion about our – at the beginning. You had some background on some of the other cities. Do most of the cities in our county have this hotline?

Ms. Richardson: No, I did not find a lot – I believe San Jose has one but it's not run through the auditor's office. I think it's run through their city administrator. I believe Santa Clara County may have one but most of the cities in our little area don't have one. San Francisco has one, Oakland has one, Sacramento has one, Long Beach, Los Angeles, San Diego...

TRANSCRIPT

Vice Mayor Kniss: The big Cities, yeah.

Ms. Richardson: Yeah.

Vice Mayor Kniss: Yeah. Do you think it's a value for a small city like us?

Ms. Richardson: Well, we did have (inaudible) (crosstalk)

Vice Mayor Kniss: You can (inaudible) your answer here, Harriet.

Ms. Richardson: We do – we did have one – so back around...

Vice Mayor Kniss: The headlines today said that you got rid of an employee because of the hotline.

Ms. Richardson: That's right.

Vice Mayor Kniss: That was interesting.

Ms. Richardson: I was asked several months ago to do a presentation about – to a department about what our office does. I did that presentation and I mentioned the hotline. It was very shortly after that, that complaint came in and it came in from that particular department and that's the where the employee ended up resigning. I think that – to me, that just says that if you explain what it really is, you'll get the right kind of calls.

Vice Mayor Kniss: Your answer is hedged a bit, right?

Ms. Richardson: Yes.

Vice Mayor Kniss: Ok. If I were to say – if I were to be explaining it to someone else, I would say well, even though most small cities don't have this. We felt it was critical in our City to have this because...

Ms. Richardson: I think you – like I said, I think you think about it as an insurance policy. Some people aren't comfortable reporting through their management or they've reported to their management and then haven't seen something happen. They want that extra piece of assurance that I can go somewhere and report. The Ethics Policy does recommend going through the chain. Report through your supervisor/manager whenever you can but the hotline is there for people who feel that they need to be – report anonymously or feel like that they don't necessarily want to report anonymously but really feel its fraud, waste, and abuse and it needs to go through the hotline. I --

TRANSCRIPT

Vice Mayor Kniss: Through the Chair, could I ask a question of the City Manager? City Manager, I'd be interested in your assessment of this. It's not a great deal of money but it is at the same time – I think it's always been a spirited discussion as to whether or not it really adds value in the City.

James Keene, City Manager: I would continue to be more on the -- as much on the half empty side as the half full side. Except for the fact that I think that the review that Harriet has done has been practical and well intentioned about how can we focus the effectiveness of the hotline better. A lot of things that have happened were things I predicted and I don't mean it in that way but the fact that we could get a lot of calls that were not relevant to the hotline. We got two substantiated calls out of ultimately 34 so that's about 6 percent. I agree with Harriet however, that say the one call that we got that clearly indicated a conflict that we were able to then deal with immediately, came in through – and so I think our focus on insurance is a good way to think about it. That being said and I want to come back to the positive aspects of the recommendations here. There is more than a cost of the direct cost administering the hotline. There is the cost of responding, of investigating, of investigating people who are wrongly accused by an anonymous complaint. That's a cost if you think about it yourself. We can even look through history of examples of societies where anonymous complaints had been able to put innocent people under a lot of stress. What I think though, what Harriet has tried to do here is really working with (inaudible) in HR as to start to really draw a clear line both to education and the focus of her work with the Committee and others to sort of – let's reduce false alarms really. Sort of like our Fire Department, we probably spend a lot of (inaudible), a lot of our money running on false alarms rather than real fires. What you always want to do it try and get those down and that's what she's tried to do here with both the focus, the education effort and the ability to steer things more to HR when they need to be there. If we were just staying on the same track, I would be more concerned about where we are going. I think Harriet has exactly the right idea in saying that there will be some situations – they should be small. I thought the Sacramento things was interesting. It was sort of like we really reduced our – increased our calls a lot but they really didn't have real change in how many of them were substantive so you kind of go gosh, is more volume what we're really after, no. What we want is the quality so to speak, not the quantity. The quality of the calls to be things that we would not get otherwise. That's really what I think the insurance is. I've come around to the fact that carefully managed as it is, I think – well, I think in practice, Harriet has tried to very carefully manage it. I think this is designed to clarify more of our intent and how we kind of move forward. I do think that we'll be able to reduce false alarms.

TRANSCRIPT

Hopefully, these guys working together, we steer even more people also through the advice line and other things. I think (inaudible).

Vice Mayor Kniss: Jim speaks of an inherent cost in addition to your \$1,200. There are also unintended consequence expenses as, which aren't woven into this. I think maybe the thing that would bother me the most is that an anonymous caller can call and say, I don't like Renee's outfit today or something very trivial or I don't like the way they are talking to me. That's the kind of things I am worried about with this in that it's so easy to call. I hear what you are saying. I hope it continues along that same pathway and if you advertise, are you talking about internal advertising or are you talking about something that we're going to spend money on?

Ms. Richardson: It would be internal. I – we would have to spend some sort of money probably for printing some documents and I think updating the website. Having information both on the City auditor website, where we currently have some information...(crosstalk)

Mr. Keene: Fraud, waste, and abuse hotline?

Mr. Richardson: ... and on the HR website, it can link them both to a common place. I think that would be helpful. Just – I think just – updating the website is not a big expense compared to some things that other people do.

Vice Mayor Kniss: Well, as I said...

Mr. Keene: Can I make a comment?

Vice Mayor Kniss: ...there's no way we are going to drop this because once you get started, you don't stop. It's like many of the other programs that we have started. It's virtually...

Mr. Keene: If I could just ...

Vice Mayor Kniss: ... impossible to stop.

Mr. Keene: ...follow up with what Harriet was saying. I think really this – the focus she wants to put on education, which isn't just like come one, come all. It to try to distinguish what this is for and our ability to generate feedback loops to the organization about that this was not a fraud, waste, and abuse call. Don't misuse the line and this was worthwhile. I think that will – I think that's designed to really improve the clarity and the effectiveness. The truth is that it may be actually that we get a few more

TRANSCRIPT

critical calls, as people start to understand what's – wow, this is what this...(crosstalk)

Vice Mayor Kniss: What works.

Mr. Keene: ...is really for versus some other stuff. I'm sure some other people can pick up the (inaudible) for all (inaudible)

Vice Mayor Kniss: I appreciate having – that's more of a – I think an overarching, almost philosophical discussion than what we are talking about tonight, which is a pretty straight forward kind of motion. I appreciate getting that background on it because it certainly has gone like this for several years. Ok, thanks.

Chair Wolbach: Tom.

Council Member DuBois: Thanks for the report. I appreciate the work. I appreciate the comparison with the other jurisdictions. I think explaining what it's for during employee orientation makes a ton of sense. I'm curious to hear a little bit more about the advice line and how that will be pitched in terms of these HR issues that have been coming in on the abuse line. Is the advice line for HR issues? Like management issues?

Rumi Portillo, Human Resources Director and Chief People Officer: Rumi Portillo, Human Resources Director and Chief People Officer. Yes, the intent of the HR advice line is to really provide a one stop type of place for employees to call in for interpretations of their union contract. To talk about maybe some of the practices that they are having out in the departments and to know whether maybe a request that a management employee has made of them is an appropriate request. It's also an advice line for managers to call in. We actually provide a lot of that consultation on a regular basis. We have – we are a very busy office. We have people in all the management and employees, but this would be one way to really have people feel – where the attempt is to have people feel more comfortable, regardless of their level in the organization to reach out and just – it's the Kaiser nurse model.

Council Member DuBois: But it's not anonymous?

Ms. Portillo: It is not. It gives the options to be anonymous or not anonymous.

TRANSCRIPT

Council Member DuBois: Is there still a gray area where there's gross misconduct by a manager with a lot of people reporting that? Is that an HR issue or is that a fraud abuse issue?

Ms. Portillo: When it comes to personnel issues, the thing to remember is there are other avenues for employees to report so we have a Harassment Policy, we have a Hostile Work Place Policy. There are obligations from managers to report...

Council Member DuBois: So, you guys feel like the lines clear?

Ms. Portillo: It's hard – there may be some situations that might be – I'm trying to think what types of things. What I would say is that as Harriet and I looked over the calls, what we found was they were duplicative. Even in the case where the employee who resigned and there was a very egregious situation there. That had also been reported in by an employee into HR in an anonymous way. Even that call was duplicative. It's just that – I'm not saying definitively that there's a bright line because very often in personnel issues, they can be messy and there are very few bright lines in our work.

Council Member DuBois: Ok, that's helpful. Again, I think duplicative can be good because it might indicate more of a problem if multiple people are reporting the same issue.

Mr. Keene: Can I just say that she was saying something different though. I mean (inaudible), that same caller called into both...

Council Member DuBois: Both places.

Mr. Keene: ...HR so both of those factors.

Council Member DuBois: I do like the idea of insurance and \$3,000 seems like we are wasting time talking about it. I do think again, you guys (inaudible) things of kind of officiant management of kind of a low volume kind of thing and I like the updates to the document. Annual training was mentioned in here and I guess that would be part of other training that are already in place? I mean, I wouldn't want to see an additional mandatory training just of the hotline.

Ms. Portillo: In terms of the hotline roll out, that had already been conducted; we did fold it into our ethics training. We had ethics training and so 850 of our employees did hear firsthand about the ethics hotline and the intent and to call but as far as an ongoing basis, we have a great opportunity with [NEO]. Then we will have other training that we would do.

TRANSCRIPT

Council Member DuBois: (Inaudible)(crosstalk)

Ms. Portillo: I think we would fold it in, right. Yeah, it's so hard to pull people offline for training.

Council Member DuBois: I had two questions, so other cities expanded to residents and contractors. Where do people go if there is an issue – if a contractor sees an issue, where can they go? We're saying that they can't use this line.

Ms. Richardson: It's not designed for – the line currently is designed only for internal use. I would assume that they could go to the City Manager's office.

Mr. Keene: I mean, lots of ways. Sometimes they go to City Council Members. There are a lot – as far as like (inaudible)(crosstalk).

Council Member DuBois: I'm thinking more about contractors as we outsource or we use contractors more.

Mr. Keene: I don't know...

Chair Wolbach: If I might jump in there. I guess maybe the question is have we considered expanding it to include – make it available to contractors and is that something that we would want to do? I think – is that kind of the gist of the question?

Council Member DuBois: Yeah and if not, where do they go?

Mr. Keene: So, I mean, I think there's a couple – part of the issue is in any situation, what – who's the right person to call but then the other side of it is, how does somebody know who the right person to call, is what the issue is. For example, on many contractors – particularly, like construction or other contractors, these folks have licenses. The licenses identify the rule pretty much there about how to report issues related to a contractor. That still doesn't mean that the public would understand that avenue. We certainly don't have one sort of location that would say almost any sort of contract issue, here's how you call. I'm sure the City attorney gets them. I'm sure the Police Department gets calls. We do a whole bunch of them, they are coming in. I think the larger questions, is there anything that Harriet could ultimately learn from those folks in more detail about their focus (inaudible) of stuff. How different is that from folks who don't have that approach? I just don't know what the ROI would be on that.

TRANSCRIPT

Ms. Richardson: Right and most of the jurisdictions that responded is that they do accept calls from outside parties. They don't track where the call is coming from so they don't generally track it by if it's an employee call versus someone else.

Council Member DuBois: Yeah.

Ms. Richardson: We did receive one – it didn't come through the case management system, it came just via an email. Where a resident reported something but it – because it was coming from a resident, I didn't accept it as a hotline call and I turned it over to the City Manager's office. That was more than a year ago.

Council Member DuBois: Also, a question about filing malicious complaints. It says we won't tolerate it but if it's all anonymous – I mean, it's just...

Ms. Richardson: Right, it – you -- it's hard to enforce that because we don't know who's calling.

Council Member DuBois: Ok. The other question I had – the last question I think was that I understand the change under Number 1 that directly relates to the City of Palo Alto. When you explained it, that made more sense. When I first read it, I was like well, what if the City employee is engaged in fraud that relates to the State of California. Are we saying that that's not appropriate?

Ms. Richardson: They can – well, if it's fraud – if it's a City employee, they can still – someone can still call it into us but there's also a State auditor also that has a hotline.

Council Member DuBois: I guess the question was really, do we want reports of employees committing fraud if it doesn't relate to the City of Palo Alto? That's the way I read it at first, was that we only care about – yeah. Ok, if it's alright, I guess – I know you guys probably want to speak but I'd go ahead and make the motion to approve the Staff motion to accept these changes.

Vice Mayor Kniss: Go for it and I'll second it.

MOTION: Council Member DuBois moved, seconded by Vice Mayor Kniss to recommend the City Council to review and accept the:

1. Proposed changes to the City Employee Fraud, Waste and Abuse Hotline Administration Policy; and

TRANSCRIPT

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.

Council Member DuBois: I did.

Vice Mayor Kniss: Done.

Chair Wolbach: Do you want to speak to your Motion?

Council Member DuBois: No. If Lydia wants to comment but I think ...

Chair Wolbach: I'm going to have a couple comments as well but Liz, do you want to speak to your second?

Vice Mayor Kniss: I think only to say that I think the discussion we had earlier tonight is one that we should keep in mind. Also, be really aware of anonymous issues because they can cloud the situation pretty quickly.

Ms. Richardson: I think we've done a good job recently, as those are coming in and really saying, this isn't a fraud, waste, and abuse and we've just started responding to them that it's not – we used to just automatically respond, we'll look into it and we're not doing that anymore. We're – now we're looking at it and saying, is it fraud, waste, and abuse and we're responding appropriately based on the content of the complaint. So, our initial contact back is to let them know either we're going to look at it or we're not.

Vice Mayor Kniss: Ok, good. Good straightforward way to handle it. Good. Thanks.

Chair Wolbach: Lydia.

Council Member Kou: Thank you for looking at all this and kind of evaluating the whole program and kind of getting it more focused and directed at what you want the outcome to be. I feel very confident that you will have this – the desired results that we're looking for. I look forward – I guess at some point, there is going to be another update on how this is progressing and I look forward to that.

TRANSCRIPT

Chair Wolbach: Just a couple of questions. I – I'm not sure we want to propose a change at this time but I think that this question of whether – at least city contractors should be able to utilize our hotline. I mean, I kind of lean towards thinking that that might be a good idea as an explanation of the program. I'm less enthused about having it open to the entire public. I guess I might be persuadable on that. It doesn't sound like there's a lot of effort towards that. I'm not sure if Staff has any thoughts about whether that's something – at least expanding it to include contractor is something that we might consider for the future. If we wanted to consider that, what would we need to include in the motion? Is that something that you guys have – where do you think we should go with that?

Vice Mayor Kniss: To jump on that though, how many are we discussing? How many contractors?

Mr. Keene: Well, so -- I mean that gets kind of complicated. Let's just take something like our solid waste contractors. That's potentially everybody driving trucks around town or whatever, picking things up, right? I mean I think we would have to sort of look at that. We do get calls -- more often than not they are complaints or service calls. Whatever it was like I didn't like how they did this or whatever, more than -- it's probably more often sort of waste or abuse. (Inaudible) they come so late or why are they making so much noise?

Chair Wolbach: I was thinking more that if the contractor themselves...

Council Member DuBois: I was thinking that way as well.

Chair Wolbach: ...observe something that they thought might rise to the level of fraud, waste or abuse. Either with the contract on their contract side or on the City side, that the contractor employees could utilize the hotline. That would expand the number of people using the hotline, that would increase the cost of the hotline because it's on a per employee basis so I'm not proposing that we make that change tonight. My question is really, how can we have that conversation to just think about that in the future?

Ms. Richardson: I think it's a progressive thing. I think we do some changes now. Maybe we come back in a year and we say ok, we did these changes. Was it effective and then we decide whether or not to expand it because if all of sudden we started getting a lot of calls that were legitimate just from employees, then we would have to look at it from a resource perspective and say, can we handle more calls?

TRANSCRIPT

Chair Wolbach: Ok, great. I don't think that needs to be in Motion but that's something that we can pick up in the future and think about but I'm glad that we broached that question. I think it's an important question. Also, on the questions of contractors, because we've – if you look at the first paragraph in this idea of expanding it to include not -- the potential targets you could say, to include not just employees but potentially contractors. Just a wording thing, I hate to take the leads on this but do we want to add the words 'or contractors' in the start of – in the first line of paragraph 2. It would say, City employees who have specific information that other City employees or contractors have engaged...

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND THE SECONDER to include "or contractor" in Objective 1, Paragraph 2 of the Staff Report: "City employees who have specific information that other City employees or *contractors*, 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."

Ms. Richardson: Yes, we can.

Chair Wolbach: Do we want to add that in there?

Ms. Richardson: Yes.

Chair Wolbach: I don't know if that needs to be in the Motion or you guys – it will be encompassed by the Motion.

Ms. Richardson: I think it should be in the Motion to change it.

Vice Mayor Kniss: I'm not comfortable with that as the secondary. I think we're getting to a dicey area.

Chair Wolbach: I'm not...

Council Member DuBois: I'm comfortable with it.

Chair Wolbach: You are so let me just clarify that that would merely align the second paragraph with the first paragraph.

Ms. Richardson: It's not to allow contractors to call in. It's saying that if an employee observe fraud, waste or abuse on behalf of a contractor doing business with the City.

TRANSCRIPT

Chair Wolbach: That was one of the changes you were trying to make. I just thought it was an oversight. (crosstalk)

Vice Mayor Kniss: (Inaudible) talking about it the other way around.

Chair Wolbach: Right.

Vice Mayor Kniss: Ok, thanks.

Chair Wolbach: Would you be ok with that?

Vice Mayor Kniss: Yes, I am (crosstalk)(inaudible) what I thought it was initially.

Chair Wolbach: Great, ok. Then – (inaudible) those questions and just a quick comment. I actually do think that these two hotlines are important and the process of studying how they can be more effective and be clearer. How we can educate employees to see where their concerns might be better addressed to the HR line, potentially as a confidential call as opposed to the fraud, waste, and abuse hotline; I think that's important. I really appreciate the teamwork that's happening here. Just as a philosophical question about good governance, I think it's important that we do have those safety valves, right? When (inaudible) insurance policy or whatever metaphor you want to use, that when somebody does feel that they've observed something that makes them very uncomfortable but they are worried about going through the official chain of command for any reason, that they feel comfortable and confident that there is a place they can go. Not just going to an elected official or going to the press but some kind of shunted internal process where their concern will be heard and where they will not face retaliation. I think it's a really important thing and I think it's important for the City. I have heard from employees – not frequently but just that they maybe had a gripe about something or they had a concern about something and asked well, did you either go to HR or did you call the hotline and they said -- I heard a concern that people didn't necessarily always feel comfortable using any of the avenues that they knew of without fear of retaliation. That they were – lacked the confidence that they could report on any mechanism and remain anonymous. That if they reported, they felt that it would be obvious who they were and then face retaliation. In that context, I do think that this is an important program. These two hotlines really, the HR one and the fraud, waste and abuse hotline and again, I appreciate the effort to improve them and improve education about them. Again, so that our employees do feel – if they have a concern, that it will be heard and it will be tackled in a way that preserves their confidentiality if that's an issue. Sometimes, just

TRANSCRIPT

knowing that that option is there, makes people feel more comfortable and improves workplace morale. Even if they never use it, right? Just like having insurance for anything else. It gives you peace of mind and I think that that's important in itself. (Inaudible) are you clear on the amendment that we're making to add those two words 'of contractors' in that second line? Ok, any other comments? Alright, so all in favor of the motion? That passed unanimously.

MOTION AS AMENDED PASSED: 4-0

Mr. Keene: Mr. Chairman, would you indulge me, the City Manager, for like three or four minutes? Just one last thing on this. Maybe I am going to tell you things that you already know but as we've often said, a hotline is an insurance, right? So, if you think of the insurance metaphor, it's like ok, we all want to have health insurance in the event that our health fails or we have problems with our health. So, there's another whole focus on being healthy in advance of insurance or anything so we also have health lines in our City. I'm just playing off of that in the sense of what is it that we do that sends positive messages? Creates a culture where people just naturally (inaudible) their valued or regardless of their position, equal and able to kind of communicate. I would just share NEO just as some symbol of what we have. Particularly, new Council Members so we have a very distinctive onboarding orientation process in our City. Every employee we bring on almost says that it is the best welcoming orientation process they've been in any job that they've had. It lasts two day, every employee starts on the same day. Their first day of work, regardless of their position so we don't have people coming in one at a time. Every month, anybody new we hired and everybody goes through an orientation that takes them on a full tour of the City. They get a briefing by the historian, they are over at Stanford, they meet people in every area. They see the Baylands and the water treatment plant. They see neighborhoods, they go up to Foothills Park and we talk with a lot of them. They meet supervisors. They come in and meet the whole leadership team every Tuesday morning and everybody introduces themselves from the new inspector we have to the department head. At the end when we do the briefing, we ask people what it was like and they say gosh, I had no idea. I have heard Palo Alto was a neat City but when would I have even seen all of the diversity of the City. When would I know the history of the community? I have never felt so welcomed before and I like this sort of – I sort of play this back with them at times. They said yeah, most of the time I've usually shown up and they show me where my cubby was and my new job and said you know – I said yeah and then we basically did a briefing for you that it told your benefits and it told how you could sue us if you had a problem or a complaint and that was it. No, really, this is the point. There is a completely – human beings respond to incentives and

TRANSCRIPT

positive things and really feeling included. To be honest with you, that's what we're putting 90 percent of our efforts in trying to do that and then having both insurance and the ability to be responsive to vary – either legitimate complaints or in the case of people needing training and learning; that's what we are trying to do. Thank you for that indulgence.

Council Member DuBois: Just one quick comment, sorry. Being at Google, they do similar things and this idea of physiological safety in the workplace is really important. I think you can pitch the fraud, abuse, waste line as part of that physiological safety. So, I think you can have a very positive spin for employees at orientation.

Chair Wolbach: Lydia, do you have another comment on this one before we move on?

Council Member Kou: Just how come the Council Members didn't get that orientation? I mean...(crosstalk)

Mr. Keene: We should do that. You know the problem – the one problem with NEO is that every employee who came on board before NEO complains about the fact that they have never had orientation.