

City of San Diego
*Office of the
City Auditor*

Doing What's Right

24 Hours A Day
7 Days A Week
365 Days A Year

City Employee
Fraud Hotline
Policy and Procedures Manual

Revised January 1, 2009

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Preface

The purpose of the manual is to outline the City Auditor's policies and procedures for handling hotline calls and complaints. This manual will also assist Department Directors or their designee, Agencies, and anyone involved in the Fraud Hotline or citizen complaint investigations to ensure they understand their responsibilities. It is also intended to provide consistency among all parties involved in the management and conduct of Fraud Hotline or citizen complaint investigations.

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I. Overview of the Fraud Hotline and Complaint Program

INTRODUCTION

History

In an investigative report authored by Vinson & Elkins L.L.P. (V&E Report) dated September 16, 2004, and adopted by San Diego City Council as San Diego Municipal Code §26.1703(c) in October 2004, recommendations were made to “establish procedures to receive and respond to any complaints or concerns regarding accounting, internal controls or auditing matters, including procedures for the confidential and anonymous submission by employees of any such complaints or concerns.”

The Auditor and Comptroller’s Office implemented the Fraud Hotline (866-809-3500) on December 2, 2005, in response to San Diego Municipal Code §26.1703(c).

Upon the transition to the Strong Mayor form of Government on January 1, 2006, the Mayor’s Office of Ethics and Integrity was created and through a third-party provider administered the Fraud Hotline. The Hotline was transferred to the Office of the City Auditor, effective July 1, 2008.

Objective

The primary objective of the Fraud Hotline is to provide a means for City of San Diego employees and citizens to confidentially report (1) any activity or conduct in which he/she suspects instances of fraud, waste, or abuse and (2) violations of certain federal or state laws and regulations (e.g., laws prohibiting discrimination or whistleblower laws).

Structure

With respect to the Fraud Hotline, an independent third-party provider receives calls from City employees, providing complete confidentiality. The caller can choose to remain anonymous. The third-party provider issues reports for each call and submits the reports to City Auditor for review and referral.

Employees and citizens may also contact the Office of the City Auditor directly via email (cityauditor@sandiego.gov) or by phone (619-533-3165). These communications are also treated confidentially.

Reporting

On a quarterly basis, the City Auditor will provide a summary report to the Audit Committee regarding the number of calls to the hotline, category of calls received, and call disposition. The Audit Committee will place on the meeting agenda a quarterly update from the City Auditor regarding the hotline. The City Auditor will make a

presentation regarding the hotline results. See Section II.7 for the reporting of substantiated cases of fraud, waste or abuse.

TERMS & DEFINITIONS

Term	Definition	Examples
Fraud	Any intentional act or omission designed to deceive others, resulting in the victim (City of San Diego) suffering a loss and/or the perpetrator achieving a gain.	<ul style="list-style-type: none"> • Falsifying financial records to conceal the theft of money or City property. • Theft or misuse of City of San Diego money, equipment, supplies and/or other materials. • Intentionally misrepresenting the costs of good and services provided. • Soliciting or accepting a bribe or kickback. • Falsifying payroll information.
Waste	The intentional or unintentional, thoughtless or careless expenditure, consumption, mismanagement, use, or squandering of City resources. Waste also includes incurring unnecessary costs because of inefficient or ineffective practices, systems, or controls.	<ul style="list-style-type: none"> • Unnecessary spending of City funds to purchase supplies or equipment. • Failure to reuse or recycle major resources or reduce waste generation.
Abuse	Intentional destruction, diversion, manipulation, misapplication, maltreatment, or misuse of City resources. Extravagant or excessive use as to abuse one's position or authority. Abuse can occur in financial or non-financial settings.	<ul style="list-style-type: none"> • Failure to report damage to City equipment or property. • Receiving favor for awarding contacts to certain vendors. • Using one's position in one City department to gain an advantage over another City resident when conducting personal business in another City department. • Creating unneeded overtime. • Requesting staff to perform personal errands or work tasks or a supervisor or manager

Abuse (Continued)	Intentional destruction, diversion, manipulation, misapplication, maltreatment, or misuse of City resources. Extravagant or excessive use as to abuse one's position or authority. Abuse can occur in financial or non-financial settings.	<ul style="list-style-type: none"> • Misusing the official's position for personal gain.¹ • Travel choices that are contrary to existing travel policies or are unnecessarily extravagant or expensive. • Making procurement or vendor selections that are contrary to existing policies or are unnecessarily extravagant or expensive.
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Hotline Intake and Review Committee

The Hotline Intake and Review Committee is composed of the following members or their designees (1) the City Auditor, (2) the Personnel Director, and (3) the Labor Relations Director. This committee meets regularly to review all complaints pertaining to employee relations, discrimination, harassment, and personnel related complaints which have been made to the Office of the City Auditor either through the Fraud Hotline or by any other means. The Hotline Intake and Review Committee will not be informed of complaints referred to the Ethics Commission or complaints related to fraud, waste, or abuse.

Third-Party Provider

An independent company (The Network, Inc.), which provides offsite hotline coverage 24/7/365, with live interviewers who ask probative questions to gather necessary information to obtain actionable information. This information is then transcribed into a report.

Incident Report

The case management system converts the information received through the interview process into an organized report called an Incident Report. These reports are disseminated to the City Auditor's designated recipients (See Section IV – Dissemination and Escalation Teams for further details).

¹ Includes actions that could be perceived by an objective third party with knowledge of the relevant information as improperly benefiting an official's personal financial interests or those of an immediate or close family member; a general partner; an organization for which the official serves as an officer, director, trustee, or employee; or an organization with which the official is negotiating concerning future employment.

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Summary Complaint Report

A summary of all closed incident reports within a specified time period that provides information such as, the Incident Type, Report Date, Date Closed, disposition, and Complaint Outcome. Additionally, there is also a summary report for all open incident reports which provides information such as, Incident Type, Report Date, and disposition, if available.

Case Management System

The Network's online tool to facilitate a thorough interview that adapts to the issues identified in each call, and to the monitoring of investigations. It allows the City Auditor's Office to document all activities in a single, centralized system.

Response

A reply or an answer from the designated division or department head that addresses the following:

- A description of an *immediate* plan to address the complaint/concern;
- Description of a plan to *prevent* the issue/concern from happening again, if warranted; and
- Description of the resolution of the issue/concern.

Audit Committee

The Audit Committee is comprised of two members of the City Council and three public members with expertise in accounting, auditing and financial reporting.

The purpose of the Audit Committee is:

- To ensure objective oversight of the City's financial reporting process;
- To monitor the performance of the Office of the City Auditor; and
- To retain the independent auditor, who will report to and take direction from, the audit committee.

Citizens' Review Board of Police Practices

The Citizens' Review Board of Police Practices:

- Reviews and evaluates serious complaints brought by the public against officers of the Police Department of the City of San Diego;
- Reviews all officer involved shootings and in-custody deaths; and
- Reviews and evaluates the administration of discipline arising from sustained complaints.

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II. Processing of Fraud Hotline Complaints

1. A third-party provider shall receive and record all hotline calls through a designated toll free number published to City employees. Information from such calls is recorded on an "Incident Report."
2. Upon completion of a complainant's call, the independent third-party provider sends an Incident Report to the City's designated dissemination team, comprised of (1) the City Auditor, (2) the City Audit Manager, and (3) City Audit Analyst via e-mail.
 - o The Audit Committee Chairperson will receive email notification of any significant complaints involving the City's Senior Management, allegations of improper financial activity, and fraud, waste, and/or abuse. Senior Management is defined as the
 - Chief Operating Officer,
 - Chief Financial Officer,
 - Deputy Chief Operating Officer for City Planning and Development,
 - Deputy Chief Operating Officer for Community Services,
 - Deputy Chief Operating Officer for Public Works,
 - Deputy Chief Operating Officer for Community and Legislative Services, and
 - Deputy Chief Operating Officer for Public Safety.
 - o The Audit Committee will receive all hotline complaints related to the City Auditor.
 - o The City Auditor will refer **all** complaints involving elected officials and their staff persons to the Ethics Commission. Further, the City Auditor will also refer certain types of complaints involving unclassified employees to the Ethics Commission. The Ethics Commission will investigate allegations involving 1) improper loans to executives; 2) unauthorized discounts; 3) kickbacks; 4) insider trading; 5) conflicts of interest; 6) theft of time (if the person earns money from outside sources while on City time); and 7) theft of goods and services (personal gain).
 - o The Ethics Commission Director will review the referred reports to determine if there exist factual allegations suggesting a violation of any governmental ethics laws. Nothing contained in these policies and procedures shall preclude the Ethics Commission from exercising its statutory investigatory and/or enforcement authority as set forth in the Election Campaign Control Ordinance, the Ethics Ordinance, and the Municipal Lobbying Ordinance should such allegations be contained in an Incident Report.

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3. At the time of the call, in the instance where the complainant has identified him/herself, the third-party provider shall ask whether the City Auditor may share his/her identity with persons outside of the Office of the City Auditor. Identities of complainants will not be shared outside of City Auditor without such permission.
4. In order to process a complaint/concern, the following information is required in order for consideration of a complaint/concern:
 - The alleged misconduct involves a City of San Diego employee, a contractor or a vendor doing business with the City of San Diego.
 - Name of the individuals involved.
 - Specific information regarding the alleged misconduct.
 - Circumstances surrounding how the alleged misconduct occurred.
 - Where the alleged misconduct occurred.
 - When the alleged misconduct occurred.

Fraud Related Complaints:

5. The Office of the City Auditor will perform an investigation following the procedures recommended by the Association of Certified Fraud Examiners for any allegations of improper financial activity and fraud, waste and/or abuse that appear to be material in nature. The scope of the investigation will be to determine if the accusations made are valid and to determine if there is any potential internal control weaknesses that need to be corrected that allowed fraud, waste and/or abuse to occur.
6. For each significant fraud related allegation, preliminary evidence will be gathered such as reviewing the information provided via the hotline, reviewing other pertinent records and interviewing appropriate witnesses to assess if the allegation appears to be valid. The City Auditor will notify and consult with the Police Department and City Attorney for any circumstances that appear to involve criminal activity. Investigative procedures will continue for each significant allegation until a case can be made for prosecution or it is determined that there is insufficient evidence of fraud. Investigative procedures will include but are not limited to:
 - Documenting the allegation in writing;
 - Interviewing potential witnesses and documenting the information gathered;
 - Identifying all possible schemes or indicators of fraud related to the allegation;

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- Notifying and consulting with the Police Department and City Attorney's Office;
 - Developing an investigative plan and determining the type of evidence to pursue; and
 - Gathering evidence and performing analysis as is appropriate, such as:
 - Reviewing accounting records, payroll records, bank records, canceled checks, credit card records, etc.
 - Downloading and analyzing electronic data
 - Reviewing emails and written correspondences
 - Imaging computer hard drives and reviewing the files and activities
7. When an investigation by the City Auditor substantiates that fraud, waste or abuse has occurred, a hotline report will be issued to the appropriate City management staff member(s), to the Mayor, City Councilmembers, and Audit Committee members. The hotline report will also be posted on the City Auditor's public website. The City Auditor will maintain the appropriate level of confidentiality regarding all complaints and in the information provided. Any hotline investigative report issued to the public will not include any details of confidential information that cannot be disclosed, such as personnel issues.
8. For any material internal control weakness that are identified during the investigation of hotline complaints, an audit will be performed in compliance with Generally Accepted Government Auditing Standards to determine the extent of the internal control weaknesses identified and to issue an audit report with appropriate recommendations to correct the deficiencies found. The Fieldwork Standards, Audit Planning, and Reporting of Audit Results described in Sections 4 through 7 of this manual will be followed for all audits of internal controls resulting from Hotline referrals.

Non-Fraud Related Complaints:

9. Any non-fraud, waste, or abuse related complaints made to the Fraud Hotline will be reviewed by the City Auditor's Hotline Intake and Review Committee. This committee is composed of the following members or their designees (1) the City Auditor (2) the Personnel Director, and (3) Labor Relations Director. This committee will review all complaints pertaining to employee relations, discrimination, harassment, and personnel related complaints. The committee will review the complaint and determine whether it meets the criteria for further investigation. If

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the complaint meets the criteria (See page 18, Section VIII), the Committee determines the appropriate City department for referral for investigation and resolution. The Hotline Intake and Review Committee **will not** review complaints referred to the Ethics Commission or material complaints related to fraud, waste, or abuse.

- In most cases, non-fraud related complaints will be referred to Departments for further review and investigation. The City Auditor will send the affected Department Director a memorandum notifying him or her of the filing of the complaint and requesting a response and advising of the process for resolving the complaint, if necessary. The Office of the City Auditor ensures, through monitoring and reminders to the designated Department head, that timely investigative and resolution activities are undertaken in response to complaints received through the hotline.
10. At the discretion of the City Auditor or his/her designee, and based on the circumstances of the complaint, the complaint may be referred to the appropriate department for action prior to the Intake and Review Committee meeting.
 11. If a complaint is received by City Auditor which contains allegations of misconduct or wrongdoing involving a member of the Intake and Review Committee, the member shall be informed a complaint has been filed. That member shall immediately recuse him/herself from the review of such complaint.
 12. As follow-up, the City Auditor or his/her designee may determine that the City Audit Analyst may need to obtain clarification or additional information from the complainant regarding the complaint/allegation.
 13. The City Audit Analyst prepares and forwards a memorandum to the appropriate Department head, along with the attached Incident Report within two business days of the Committee's review. The memorandum advises of the filing of the complaint, requests a response and advises of the process to secure additional information concerning the complaint, if necessary. A copy of the memorandum shall also be sent to the Chief Operating Officer, Personnel Director or Deputy Chief as determined appropriate by the City Auditor.
 14. If the subject of the complaint is a supervisor/manager at any level, the complaint will be forwarded to and should be resolved by the next level of supervisor/manager. The subject of the complaint will have no involvement in the response.
 15. Complaints alleging criminal activity (e.g. theft) will be forwarded to the San Diego Police Department for investigation. Complaints against sworn officers will be forwarded to the **Citizens Review Board of Police Practices**.

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16. If a non-fraud related complaint involves a Department head, it is forwarded to the appropriate Deputy Chief for investigation and review.
17. Department Directors and any other personnel involved in the investigation of a non-fraud related complaint shall not share the substance of a complaint with anyone except those individuals who are directly involved in conducting the investigation. Such personnel provided with this information shall hold all information obtained as confidential.
18. If it is deemed necessary by the Department/Division head for investigative purposes, to disclose the nature of the allegation(s) to the target, such may be done by providing only a summary of the allegation(s). However, care should be taken to provide no information that would compromise the complainant's or any witness' identity. Sharing an allegation(s) of non-compliance outside of the City Auditor Intake process may constitute cause for an ethics complaint and/or for a legal claim of defamation.
19. Breaches of confidentiality may result in disciplinary action.
20. The City Audit Analyst ensures, through monitoring and reminders to the affected Department head, that timely investigative and resolution activities are undertaken in response to complaints received through the hotline. The City Auditor generally requires a response within 10 days of receiving the memo. However, the City Auditor will grant extensions on a case-by case basis.
21. The City Auditor or his/her designee in conjunction with the Intake and Review Committee will review the response submitted by the Division or Department head to determine if the allegation(s) raised in the complaint have been adequately addressed in the response. Upon such a determination, a memo from the City Auditor to the Division or Department head will thereafter be provided, indicating closure of the matter.
22. However, if the response is deemed to inadequately address the allegation(s) raised in the complaint, the Division or Department head, appropriate Deputy Chief and the Chief Operating Officer will be notified. The Division or Department head will be provided an opportunity to provide further clarification of the response and/or to further acquire additional information or to perform other actions as deemed necessary.
23. In the instance where a complainant has self identified, such complainant will be notified of the City Auditor action on or referral of the complaint. The complainant may be advised that, in the instance of a referral, the City Auditor may not be able to provide the complainant further information regarding the outcome of his/her complaint.

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III. Processing of All Other Employee Complaints

1. The City Auditor receives complaints by means other than through the Fraud Hotline (e.g. e-mail, telephone, letter, etc.). Complainants may remain anonymous.
2. If the complaint is orally provided either in person or by telephone, the City Audit Analyst logs, in writing, the factual allegation(s) of the complaint and attempts to obtain adequate information to facilitate an effective review.
3. The City Audit Analyst logs the complaint and places a time/date stamp on all such complaints received.
4. The City Audit Analyst enters the employee complaint into the third-party provider case management system.
5. Once entered into the case management system, the complaint is processed according to procedures as set forth in Section II.

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IV. Dissemination and Escalation Teams

Dissemination Team

Upon completion of the call, the third-party provider sends Incident Reports to the City's designated dissemination team. The team consists of the following: (1) the City Auditor, (2) the City Audit Manager, and (3) the City Audit Analyst via e-mail.

The Audit Committee Chairperson will receive email notification of all significant complaints involving the City's Senior Management, allegations of improper financial activity, and fraud, waste, and/or abuse.

Escalation Team

When a report is received that is designated for escalation (reports of high risk/threat situations requiring immediate notice), the third-party provider shall call the appropriate designated agency representatives immediately. The City has designated the City Auditor for financial emergencies, the Personnel Director for personnel related matters, and the Labor Relations Manager for workplace violence. The notified representative will contact the City Auditor of the call and respond as detailed in Section II.

Standard Incident Report Dissemination

Incident Reports shall be disseminated by the third-party provider, within two hours via email to the dissemination team members.

Escalation

If one of the following Incident Types is assigned to an Incident Report, and if it is determined the incident will happen again within 24 hours, then escalation is automatically triggered.

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Escalation Team Member	Department	Type of Complaint
Eduardo Luna (If unavailable, contact Kyle Elser)	City Auditor Audit Manager	Kickbacks Falsification of Organization Records Fraud Fraudulent Insurance Claims Release of Proprietary Information Theft of Goods/Services Theft of Cash
Scott Chadwick	Labor Relations	Workplace Violence/Threats Substance Abuse
Hadi Dehghani	Personnel	Retaliation of Whistleblowers

Process

The third-party provider shall immediately call the appropriate designated escalation team representative if an Incident Report meets both of the following criteria:

- 1. Threat of or actual harm to employees, customers, or operations**
- 2. Any significant incident projected to reoccur within 24 hours**

All such reports are checked by the third-party provider's Quality Assurance Team prior to contacting the designated persons on the City's Escalation Team.

If the City Auditor believes that any communication, received by his office, constitutes a threat to any individual, organization, or to the public, he/she shall immediately notify the appropriate escalation team member and any other individual(s) as is deemed appropriate.

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V. Processing of Citizen Complaints

1. The City Auditor receives complaints of waste, fraud and abuse from citizens through a variety of means, including e-mail, telephone, letter, etc.
2. If the complaint is orally provided either in person or by telephone, the City Audit Analyst shall record, on a Citizens Complaint Form, the factual allegation(s) about the complaint and attempts to obtain adequate information to facilitate an effective review.
3. The City Audit Analyst logs the complaint and places a time/date stamp on all such complaints received.
4. The City Audit Analyst enters the complaint into the case management system, at which time a case number is assigned to facilitate a follow-up process. As follow-up, the City Audit Analyst may need to clarify or obtain additional information regarding the complaint/allegation(s).
5. Once assigned a case number, the complaint is processed according to procedures as set forth in Section II.
6. Employees, who are the subject of a complaint, shall be notified as set forth in the applicable Memorandum of Understanding. For example, Local 127 MOU states:

Employees will be notified of any citizen complaint or route slip in which they are identified by name or in which they can be identified by management from the information received. The City shall be obligated to provide the necessary information related to any citizen complaint and/or route slip to authenticate the complaint and forward such authentication to Local 127 within 10 days from when the City received such complaint and/or route slip. The City may redact the citizen's name from the complaint. If the complaint is resolved in the employee's favor, the complaint, together with all related documents, shall be removed immediately from the employee's personnel file(s), unless the employee requests in writing that the document be retained.

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VI. Security for Complaints and Associated Reports, Working Papers, and Other Documents

Policy

- All complaints, associated reports, working papers, and other documents detailing employee and citizen complaints, which are received either through the Fraud Hotline, by mail, e-mail and those documents or notes of any oral conversations with City employees or citizens, shall remain confidential at all times.
- Such complaints, associated reports, working papers, and other documents shall **ONLY** be discussed with the City Auditor, City Audit Analyst, and other individuals as determined by the Intake and Review Committee for all complaints pertaining to employee relations, discrimination, harassment, and personnel related complaints.
- No copies are to be made of any complaints, associated reports, working papers, and other documents, except for discussion in Intake and Review Committee meetings or when non-fraud related issues are forwarded to a Department head for investigation and resolution. At the conclusion of each Intake and Review Committee meeting all copies made for that purpose shall be destroyed and the original complaints, associated reports, working papers, and other documents shall be maintained in a secured manner by the City Audit Analyst.
- Incident Reports and associated case numbers shall **ONLY** be provided to individuals who are responsible for conducting the investigation or reviewing of the complaint. Such information shall be held in strict confidence.
- The confidentiality of all complaints, associated reports, working papers, and other documents shall be maintained at all times by the City Auditor and investigating/reviewing departments.
- Only the City Auditor or his/her designee, in conjunction with the Office of City Attorney is authorized to determine the distribution or release of any complaints, associated reports, working papers, other documents and correspondence associated thereto, in accordance with the California Records Request Act.

Confidentiality

The City Auditor will mark all complaints, associated reports, working papers, and other documents concerning the review or investigation of complaints as **Confidential**. The City Auditor and Departments will maintain strict confidentiality throughout the processing of all complaints and through disposition/resolution.

Custodian of Complaint Documents

The City Auditor shall maintain custody of complaints, associated reports, working papers, and all other pertinent information regarding any investigations of complaints. Other parties involved in the investigation shall also retain their own documentation.

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VII. Requests for Information Regarding All Complaints

1. All requests for information concerning any employee or citizen complaint shall be directed for response to the City Auditor. The City Auditor shall respond to such requests as permissible under applicable state law and City policy, rules and regulations.
2. Departments shall refer to City Auditor any Public Records Act or other requests for information regarding complaints received through City Auditor or the Fraud Hotline.

VIII. Referral of Employee Complaints

Policy

City employees, who have complaints or concerns regarding waste, fraud and abuse, individual or organizational processes, are encouraged to report such complaints or concerns to the Office of the City Auditor. All such complaints and concerns shall be processed as shown in Section II. Any complaints pertaining to employee relations, discrimination, harassment, and personnel related complaints shall be reviewed by the Intake and Review Committee for a determination of whether the allegation(s) are credible and appropriate for department referral through Office of the City Auditor.

Methodology for Referral of Complaints

As complaints are received, the City Audit Analyst reviews and evaluates the seriousness of the allegation(s) to determine if immediate action is required, which could include an investigation by the City Auditor or convening the Intake and Review Committee. Otherwise, the Intake and Review Committee shall convene every two weeks to review the non-fraud related Incident Reports received by the City Auditor and decide upon the referral of each report or any other appropriate action. A non-fraud related complaint may be referred to:

- Deputy Chief
- Department Director
- Ethics Commission
- Citizens Review Board of Police Practices
- Equal Employment Investigation Office
- Other referral as deemed appropriate by the Committee

The City Audit Analyst shall prepare a transmittal memo (Section IX for examples) and attach a copy of the complaint. The City Audit Analyst shall maintain a database that includes summary information from each complaint, assignment date, assigned to, meeting notes, memo sent date, forms sent date, received department response, and complaint matter is closed. This information is confidential and shall be securely maintained.

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Criteria

An incident report shall contain all of the elements listed below, which will monitor the complaint until its disposition. The allegations contained in the report must be:

Credible In the opinion of the City Auditor (for fraud related issues) or the Intake Review Committee (for non-fraud related issues), the complaint is worthy of belief. The complaint appears to have been filed in good faith, with no malicious intent;

Fraud Related Alleges waste, fraud, abuse

Non-Fraud Related Complaints pertaining to employee relations, discrimination, harassment, and personnel related complaints

Sufficient Information Provides information as set forth in Sec. II (4) of these procedures; and

Timely Complaint should ideally be filed within 60 days of the incident happening. However, evidence provided for significant fraud, waste or abuse will be investigated regardless of the timeframe that the incidence occurred. Non-Fraud Related complaints will generally not be referred to the intake committee for review unless the incident was reported within the following timeframes:

Sexual Harassment	Reported within 2 years of the incident occurring
Discrimination	Reported within 2 years of the incident occurring
Other Personnel Related Issues	Reported within 1 years of the incident occurring

If the report does not address fraud related issues, it will not be investigated by the City Auditor. The report may, nonetheless, be forwarded to the appropriate department director for their information only and the Office of the City Auditor will take no further action based on the opinion of the Intake Review Committee.

Filing of Malicious Complaints

City Auditor will not tolerate malicious complaints. The processing of a complaint/concern requires staff time and attention regardless of its appropriateness. Mistaken complaints/concerns are not considered malicious. Complaints/concerns made frivolously, in bad faith or without factual basis may constitute defamation and may be legally actionable in the courts by a respondent. Malicious complaints made in bad faith may result in disciplinary action, up to and including dismissal. Lodging a malicious complaint/concern is, in itself, a category of unethical behavior.

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IX. Sample Transmittal Memos

Introduction

The following is a sampling of types of transmittal memos used with respect to cases processed through the Hotline. A copy of the Incident Report is attached to the initial transmittal letter to the Department Heads, along with resolution forms. As well, memos or comments are also provided to the identified or unidentified complainant indicating the initial course of action the Intake and Review Committee.

1. Sample Memo when an Incident Report is *Assigned to Department Director*:

Date: February 26, 2009
 To: Department Director
 From: Eduardo Luna, City Auditor
 Subject: Fraud Hotline Report <#>

Attached is a copy of a confidential incident report that was filed with the City's Fraud Hotline. This office received the report on <date> regarding an issue or concern in your department. Since the report is specifically related to matters under your direction, you will best be able to address the issue(s) or concern(s) reported. Please ensure all existing policies and procedures are properly followed while reviewing or investigating this claim.

Callers are provided a report number and a date to call back to check the status of their complaint; additionally, it allows you to obtain any additional information that is needed as their allegations are investigated. For this reason, it is important that you respond to this report to provide feedback to the caller and to ensure that all issues or concerns are adequately addressed.

After you review the attached report, determine if you need any additional information from the caller and provide the caller with a status report (even if no action is to be taken). To do so, send an email with all questions and/or comments to The Network, our independent third-party hotline provider, at NetworkCallbacks@tnwinc.com and copy the cityauditor@sandiego.gov. When submitting your questions and/or comments, include the **report number**, as indicated on the attached report, in the subject line by the **response date** provided in the *Client Instructions* section of the report. Your questions and/or comments will be forwarded to the caller should they call back on or after their assigned date.

In order to help sustain the integrity and success of the hotline, send the attached forms completed and signed to _____, MS 614B, within 10 business days of receiving this memo. If you have any additional questions regarding the incident report, or this process, contact _____ at (619) _____. We want to ensure all issues or concerns are addressed in a timely manner.

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2. Sample Memo when Incident Report is provided to Department Director for informational purposes only:

Date: February 26, 2009
To: Department Director
From: Eduardo Luna, City Auditor
Subject: Fraud Hotline Report <#>

Attached is a copy of a confidential incident report that was filed with the City's Fraud Hotline. This office received the report on <date> regarding a complaint/issue or concern in your department. The Intake and Review Committee has established a process for screening the complaints/concerns and it has been determined that this complaint/concern does not require further action be taken by the City Auditor; however, we are providing this report to you for informational purposes. You do not need to provide a response regarding this report.

However, if you feel that an investigation is necessary, ensure all existing policies and procedures are properly followed while reviewing or investigating this claim and contact us to discuss any action you plan to take, so we can update our records as needed. If you have any questions regarding this report or this process, you can contact _____ at (619) _____.

Thank you.

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3. Sample Memo to an identified complainant and complaint/concern meets the criteria set forth in Section VIII Criteria :

Date: February 26, 2009
To: Identified Caller
From: Eduardo Luna, City Auditor
Subject: Fraud Hotline Report <#> dated (...)

This office received your complaint/concern filed with the Fraud Hotline and, upon an initial review, the Intake and Review Committee has determined that your concern should be referred to **XXX** for further review. Any further communications related to your concern should be directed to **XXX**. **XXX** has been instructed to provide a resolution to this office upon completion of his/her review or investigation.

The City of San Diego will not retaliate, nor will it tolerate retaliation against those who, *in good faith*, report suspected ethics violations or who participate in an investigation of suspected ethics violations. An act of retaliation should be reported immediately to the Office of the City Auditor, which will investigate any such report as a potential ethics violation. In addition, those who bring matters to City Auditor are protected through the state Whistleblower Protection Act. Details of the Act can be found at <http://www.dir.ca.gov/dlse/whistleblowersnotice.doc>.

If you feel your concern is not addressed, please contact this office directly via email at cityauditor@sandiego.gov and reference the report number above.

Due to the nature of the complaint filed, this office may not be able to provide you with the outcome.

We appreciate your efforts and thank you for "Doing the Right Thing!"

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4. Sample Message sent to the unidentified caller indicating course of action taken by the Intake and Review Committee:

Date: February 26, 2009
To: Identified Caller
From: Eduardo Luna, City Auditor
Subject: Fraud Hotline Report <#> dated (...)

Your complaint/concern filed with this Hotline has been reviewed by the Intake and Review Committee and they have determined that your complaint/concern should be referred to **XXX** for further review. If you have additional information that would be useful in **XXX's** review into your complaint/concern please contact The Network again with any additional information.

If you feel your concern is not addressed, please contact this office directly via email at cityauditor@sandiego.gov and reference the report number above.

Due to the nature of the complaint filed, this office may not be able to provide you with the outcome.

We appreciate your efforts and thank you for "Doing the Right Thing!"

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5. Sample memo requesting additional information from the identified complainant before the City Auditor or Intake and Review Committee proceeds when there is not enough information to make an informed decision:

Date: February 26, 2009
To: Caller
From: Eduardo Luna, City Auditor
Subject: Complaint Filed

All documents provided to this Office have been reviewed, but before we can move forward, please provide specific information with appropriate details (i.e. etc). Your claim cannot be substantiated without the requested information. Once this information is provided, we will be able to determine the appropriate course of action.

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6. Sample memo informing the identified complainant that his/her complaint does not meet the Hotline criteria, and therefore not in the purview of the City Auditor:

Date: February 26, 2009
To: Identified Caller
From: Eduardo Luna, City Auditor
Subject: Fraud Hotline Report <#> dated (...)

This office received your complaint/concern filed with the Fraud Hotline and, upon an initial review, the Intake and Review Committee has determined that this matter should be referred to **XXX**, (Title) **Director** for further review. We have determined that allegations contained in your complaint do not constitute a violation of fraud, waste or abuse and, therefore, is not within the purview of the Office of the City Auditor. Accordingly, this office will not take any further action regarding this matter. Any further communications related to your concern should be directed to **XXX**. If you feel your concern is not addressed, you should then contact your union.

The City of San Diego will not retaliate, nor will it tolerate retaliation against those who, *in good faith*, report suspected ethics violations or who participate in an investigation of suspected ethics violations. An act of retaliation should be reported immediately to the Office of the City Auditor, which will investigate any such report as a potential ethics violation. In addition, those who bring matters to City Auditor are protected through the state Whistleblower Protection Act. Details of the Act can be found at <http://www.dir.ca.gov/dlse/whistleblowersnotice.doc>.

We appreciate your efforts and thank you for "Doing the Right Thing!"

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7. Sample reminder memo to referred party that a response is due to CITY AUDITOR and the deadline is approaching:

Date: February 26, 2009
To: Department Director
From: Eduardo Luna, City Auditor
Subject: Hotline Report Response Deadline Reminder

You are receiving this memo as a reminder that your response(s) to the confidential hotline report(s) is(are) due by <date>. You have been asked to respond with 10 business days of receiving the memo dated <date>, and to date this office has not yet received your response. If you need details regarding the report(s) previously provided, please contact _____ (619) xxx-xxxx or _____@sandiego.gov.

If you need more time to resolve the complaint, send an email to cityauditor@sandiego.gov explaining your course of action and why additional time is necessary to resolve the complaint properly. Otherwise, the resolution form(s) should be completed, signed and sent to _____ at MS 614B, within five days of receiving this memo, unless other arrangements have been made. If you feel you have received this memo in error, contact _____ to confirm your response has been received by the Office of the City Auditor.

Your attention to this matter is greatly appreciated.

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8. Sample memo to referred parties when a response is past due:

Date: February 26, 2009
To: Department Directors
From: Eduardo Luna, City Auditor
Subject: Hotline Report Responses Outstanding

Within the last month, this office has forwarded one or more Hotline report(s) asking you to reply, and to date this office has not received your response. If you need details regarding the reports previously provided, contact ____ at (619) ____ or ____@sandiego.gov.

If you need more time to resolve the complaint, please contact _____ or send an email to cityauditor@sandiego.gov explaining your course of action and why additional time is necessary to resolve the complaint properly. Otherwise, the outstanding resolution form(s) should be completed, signed and sent to ____, MS 614B within five days of receiving this memo, unless other arrangements have been made. If you feel you have received this memo in error, contact _____ to confirm your response was previously submitted.

Your attention to this matter is greatly appreciated.

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9. Sample memo to department directors or appropriate referred party when CITY AUDITOR closes the complaint:

Date: February 26, 2009
To: Department Director
From: Eduardo Luna, City Auditor
Subject: Fraud Hotline Report <#>

On <date>, City Auditor received your response to the City's Fraud Hotline report <#>. The Intake and Review Committee has reviewed the response and deems the response is satisfactory, therefore, the City Auditor will close this case and no further action will be taken regarding this matter. If you have any questions regarding this report or the process, contact _____ at (619) _____.

We appreciate your contributions to improving the City's ethical climate and to making the hotline a success.

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10. Sample plan provided to City Auditor from department directors or appropriate party reporting resolution of complaint (report not to scale):

City of San Diego
Office of the City Auditor
Fraud Hotline Resolution

Report #	Plan date:
Describe your <i>immediate</i> plan to address the issue/concern:	
Describe your plan to <i>prevent</i> the issue/concern from happening again:	
Signature and Title:	
Date:	

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11. Sample report to City Auditor from department directors or appropriate party reporting resolution of complaint (report not to scale):

City of San Diego
Office of the City Auditor
Fraud Hotline Resolution

Report #	Resolution date:
Describe how you resolved the issue/concern below:	
<div style="position: relative; width: 100%; height: 100%;"> CONFIDENTIAL </div>	
Signature and Title:	
Date:	