



**Office of the City Auditor**

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**Report to the City Council  
City of San José**

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**PERSONNEL  
INVESTIGATION  
STRUCTURE:  
AUGMENTING POLICIES  
AND TRAINING CAN  
IMPROVE THE PROCESS**

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**Report 15-12  
November 2015**

November 12, 2015

Honorable Mayor and Members  
Of the City Council  
200 East Santa Clara Street  
San José, CA 95113

**Personnel Investigation Structure: Augmenting Policies and Training Can Improve the Process**

The purpose of a personnel investigation is to gather facts to reach a sound conclusion about whether an employee has violated a policy, guideline, or procedure. In the City of San José, the City Manager's Office of Employee Relations (OER) leads investigations of serious allegations and serves as a resource for other departments' staff who may conduct personnel investigations.

The purpose of our audit was to review the City's structure for conducting personnel investigations. We conducted this audit in response to a City Council request.

**Finding 1: The City's Investigation Structure Is Not Unusual.** Best practices require that the City have an appropriate structure and policies to ensure the integrity of personnel investigations. In San José, OER oversees both employee and labor relations, and City departments share responsibility for conducting personnel investigations. This system with shared responsibility is not unusual.

**Finding 2: Additional Written Policies and Procedures Are Needed.** San José's written policies and procedures for conducting personnel investigations are very brief. The Administration should formulate a City-wide Administrative Policy to document its broad investigation principles. To guide its own staff and departmental staff, OER should also document details in additional written procedures for:

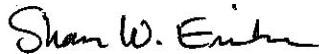
- Administering the Whistleblower Hotline
- Maintaining impartiality and objectivity during investigations
- Protecting confidentiality in light of legal challenges to blanket confidentiality instructions
- Hiring external investigators
- Investigating high-ranking officials
- Deciding whether to move forward with an investigation.

**Finding 3: Additional Investigative Trainings and Updated Materials Would Benefit City Staff Who Conduct Investigations.** Both OER analysts and departmental staff conduct investigations of City employees. OER analysts are required to attend at least one formal training and have attended approximately one investigation-oriented training per year, but they primarily receive on-the-job training. Departmental staff who conduct investigations, too, can benefit from formal training, but are not required

to receive it. In our opinion, OER should set minimum training requirements and make regular trainings available to all City staff who conduct personnel investigations.

This report includes two recommendations to improve the structure of personnel investigations. During the course of this audit, pursuant to our recommendations, OER drafted updates to related policies and procedures, and scheduled an investigation training geared towards departmental staff for the end of 2015. We will present this report at the November 19, 2015 meeting of the Public Safety, Finance, and Strategic Support Committee. We would like to thank the City Manager's Office of Employee Relations, the City Attorney's Office, and other City departments for their time and insight during the audit process. The Administration has reviewed this report, and its response is shown on the yellow pages.

Respectfully submitted,



Sharon W. Erickson  
City Auditor

finaltr  
SE:lg

Audit Staff: Minh Dan Vuong  
Michael Tayag

cc: Norberto Dueñas   Rick Doyle  
Jennifer Schembri   Suzanne Hutchins  
Allison Suggs  
Jennifer Maguire

This report is also available online at [www.sanjoseca.gov/audits](http://www.sanjoseca.gov/audits)

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# Introduction

The mission of the City Auditor's Office is to independently assess and report on City operations and services. The audit function is an essential element of San José's public accountability, and our audits provide the City Council, City management, and the general public with independent and objective information regarding the economy, efficiency, and effectiveness of City operations and services.

In accordance with the City Auditor's Fiscal Year (FY) 2015-16 Work Plan, we have completed an audit of the City's personnel investigation structure. The audit was conducted in response to the City Council's request for an audit in this area.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We limited our work to those areas specified in the "Audit Objective, Scope, and Methodology" section of this report.

The Office of the City Auditor thanks the City Manager's Office of Employee Relations, the City Attorney's Office, and other City departments for their time and insight during the audit process.

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## Background

With some 7,200 individual employees (including part-timers),<sup>1</sup> the City of San José is a large employer. Under the City Charter, the vast majority of these employees are under the appointing authority of the City Manager. These include employees in the Departments of Police; Fire; Library; Environmental Services; Public Works; Parks, Recreation and Neighborhood Services; Transportation; and many more. A relatively small number of City employees are under the appointing authorities of the Mayor and City Council, City Attorney, City Auditor, Independent Police Auditor, or Director of Retirement Services.<sup>2</sup>

The City Charter also distinguishes between classified and unclassified employees. Most City employees (about 6,700) are classified members of the Civil Service. Civil Service rules establish general principles on fairness and equality in employment practices; classified employees have some protections (e.g., when

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<sup>1</sup> As of August 11, 2015.

<sup>2</sup> The Retirement Boards appoint the Director of Retirement Services and the Chief Investment Officer of the Office of Retirement Services. The Director of Retirement Services is the appointing authority for the professional, technical, and clerical employees of the office.

they are disciplined). About 500 employees are unclassified (at-will) management employees.

### **Investigations Help Employers Reach Sound Conclusions, Resolve Workplace Issues, and Reduce Liability**

Sometimes it becomes necessary to conduct a personnel investigation into the conduct of an employee. The purpose of a personnel investigation is to gather facts to reach a sound conclusion about whether an employee has violated a policy, guideline, or procedure.

According to legal experts, a well-done investigation must:

- Be prompt and thorough,
- Be conducted by an impartial investigator,
- Be well-researched and documented,
- Protect confidentiality and privacy rights to the extent possible,
- Follow notification procedures, and
- Lead to appropriate action to end inappropriate conduct and rectify shortcomings.

A well-done investigation helps employers resolve workplace issues efficiently. It also conveys the message that the City expects its employees to comply with policies and procedures governing employee conduct, and instills confidence and trust in the investigative process.

Finally, proper investigations help protect the employer from liability when there are allegations of harassment, discrimination, or retaliation in violation of state or federal law. Under the federal civil rights laws and state fair employment laws, employers have a legal duty to launch a prompt and appropriate investigation of such charges and claims to prevent discrimination and harassment.

### **The City Investigates Many Forms of Alleged Employee Misconduct**

The Municipal Code and City Policy Manual list causes for employee discipline, including failure to perform duties satisfactorily, failure to observe applicable laws and regulations, insubordination, dishonesty, absence without leave, misuse of City property, etc. The City investigates allegations of these and other forms of employee misconduct. Exhibit I lists some common examples of disciplinable conduct.

**Exhibit I: Common Examples of Disciplinable Conduct**

<b>Disciplinable Conduct</b>	<b>Examples</b>
Harassment	Viewing sexually explicit material in the workplace
Retaliation	Intimidating another employee who may have blown the whistle on another issue
Inexcusable absence without leave	Absence without notification to supervisor
Misuse of City property	Driving a City vehicle or using a City computer for personal business
Alcohol use	Being under the influence of alcohol while at work
Failure to perform duties satisfactorily	Consistently poor work performance; not meeting job requirements
Insubordination	Refusal to participate in an investigation
Dishonesty	Lying during an investigation

Source: Auditor Analysis

**The Office of Employee Relations Plays a Key Role in the Investigation Structure**

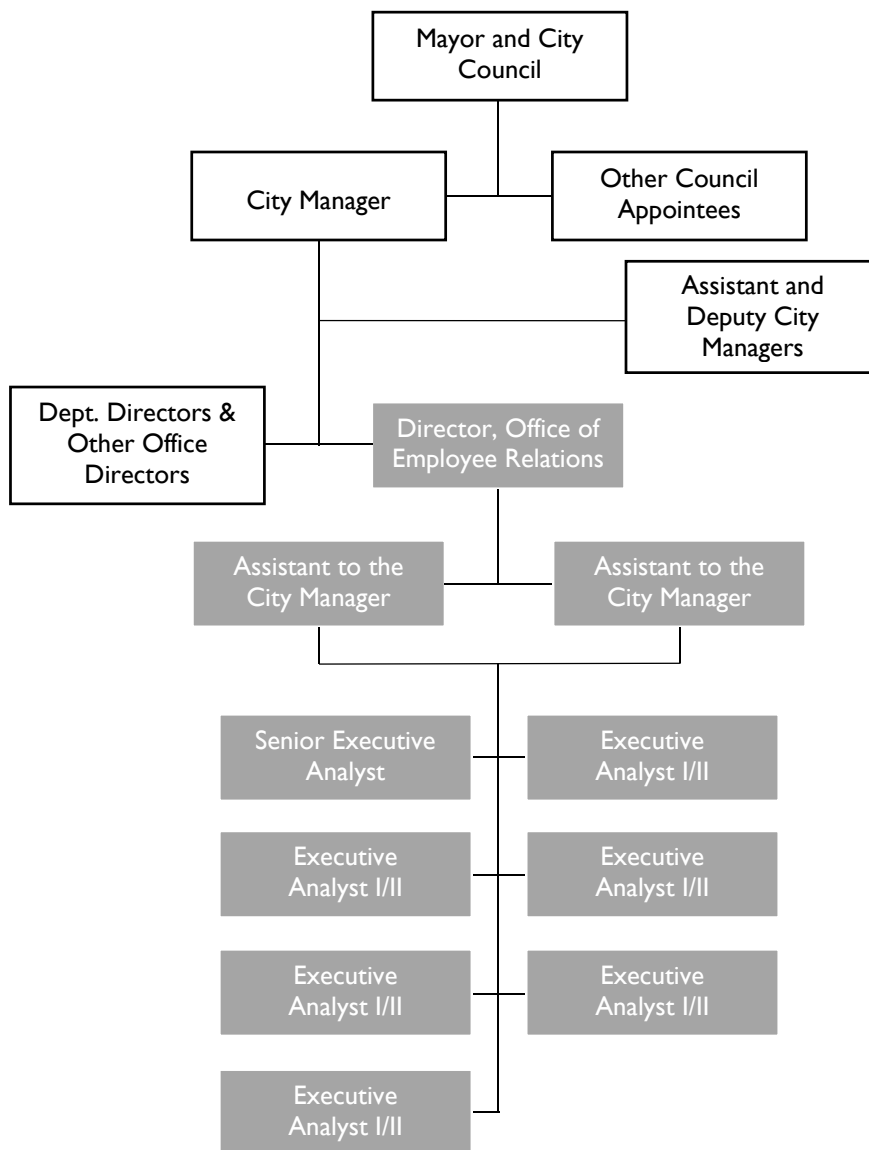
The Office of Employee Relations (OER) is part of the City Manager's Office. The OER Director reports directly to the City Manager, with oversight by a Senior Deputy City Manager. The mission of the Office of Employee Relations is to *encourage effective employee relations for City of San José employees by supporting a positive, productive, and respectful work environment, and enhancing the City's ability to deliver efficient, quality customer service.*

OER's major functions relate to employee relations and labor relations. Aside from conducting personnel investigations, OER is responsible for performance management (discipline), administration of the Whistleblower Hotline, fair employment, and employee consultation and training. In the field of labor relations, OER is responsible for contract negotiations, administration, and interpretation; grievances; arbitrations; and the meet-and-confer process.

OER consists of 1 Director, 2 Assistants to the City Manager, 7 Executive Analysts (I, II, or Senior), and 1 Executive Assistant. Aside from the Executive Assistant, all OER staff are trained to perform all OER functions. Exhibit 2 displays OER's organizational structure, including the OER Director's reporting relationship to the City Manager.



**Exhibit 2: Organization Chart**



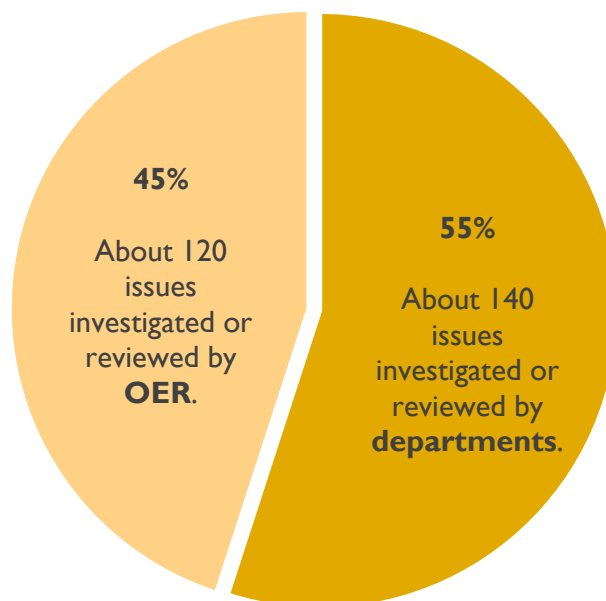
Source: Auditor analysis and Office of Employee Relations, as of October 2015

In FY 2014-15, OER’s operating expenses were \$1.4 million, mostly for personal services. In addition, OER manages the “City-Wide Expenses” for retirement actuarial studies and labor/employee relations consultants.

### OER and Departments Investigate or Review Issues

According to OER's records, the Administration investigated or reviewed approximately 260 issues in calendar year 2014.<sup>3</sup> About 30 of the issues were reported through the City's Whistleblower Hotline (discussed later in this report). OER handled approximately 45 percent of the issues, while individual departments handled the remaining 55 percent. The caseload varies by department: a large department may handle as many as 70 issues per year,<sup>4</sup> while a small department might look into three or four issues. The duration of investigations can range from as short as one day for minor, routine investigations to as long as several months for investigations of serious allegations. Exhibit 3 displays the approximate number and percentage of issues investigated or reviewed by OER and departments in 2014.

#### Exhibit 3: Issues Investigated or Reviewed by OER and Departments—2014



Source: Office of Employee Relations

OER provides public reports of formal disciplinary actions on its webpage. These reports, however, are limited in order to protect the privacy of those involved. Furthermore, the public can listen to appeals of disciplinary actions at the Civil Service Commission.

<sup>3</sup> This number does not include: informal issues handled at a low level by departments that were not reported to OER, San José Police Department Internal Affairs investigations that did not lead to formal discipline or that stemmed from unsubstantiated allegations, and investigations not related to personnel matters, like those by the Ethics Commission. In addition, not all of these issues led to formal investigations.

<sup>4</sup> Not all of these 70 issues would result in recommended discipline or be reported to OER. As a result, some issues are in addition to the estimated 260 issues reported by OER. See the previous footnote for more information.

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### Audit Objective, Scope, and Methodology

The objective of our audit was to review the City's structure for conducting personnel investigations. In order to achieve our audit objective, we did the following:

- Reviewed relevant City laws, regulations, and policies and procedures related to personnel investigations—the City Charter, Municipal Code, the City Policy Manual, and the City Council Policy Manual—and relevant state and federal laws related to harassment, discrimination, and whistleblower protection.
- Reviewed OER's disciplinary handbooks for staff, written internal procedures, training materials, and case statistics, as well as the portion of the San José Police Department Duty Manual related to personnel investigations.
- Interviewed OER staff and staff in various City departments who carry out investigations to understand policies and procedures, and how investigations are conducted.
- Compared the City's personnel investigation structure to those of other agencies: City of Los Angeles, City and County of San Francisco, Santa Clara County, City of Oakland, City of Long Beach, San José State University, City of San Diego, and City of Sacramento.
- Reviewed legal sources to understand best practices in conducting personnel investigations: "Workplace Investigations: A Practice Guide for City Attorneys," presented by Burke, Williams, & Sorensen LLP to the League of California Cities; "Conducting an Effective Internal Investigation," published by Hirschfeld Kraemer LLP; Lisa Guerin's "The Essential Guide to Workplace Investigations;" and Ellen J. Wagner's "Sexual Harassment in the Workplace."

The scope of work focused specifically on the structure of personnel investigations. It did not include an assessment of the quality of personnel investigations conducted by the City or a review of personnel or investigation files for any individual employee. We did not audit disciplinary actions that may follow personnel investigations.

# Finding I      **The City's Investigation Structure Is Not Unusual**

## **Summary**

Best practices require that the City have an appropriate structure and policies to ensure the integrity of personnel investigations. In San José, OER oversees both employee and labor relations, and City departments share responsibility for conducting personnel investigations. This investigation structure is not unusual.

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## **Various City Offices and Departments Are Involved in Personnel Investigations**

Complaints against employees originate from various sources and can go to different places. For example, members of the public or City employees may raise concerns with supervisors, department directors, or with OER.<sup>5</sup>

OER also maintains the City's Whistleblower Hotline that receives complaints by telephone, fax, letter, email, or online form from City employees and members of the public.<sup>6</sup> Complainants to the Whistleblower Hotline can choose to remain anonymous.

## **OER and City Departments Share Responsibility for Conducting Personnel Investigations**

The City's current practice is to investigate and address complaints at different levels of the organization, depending on the severity of the concern. For classified employees, the investigative process (as documented in the *Disciplinary Handbook for Employee Relations Liaisons*) is as follows:

- Supervisors commonly investigate and address basic concerns (for example, tardiness) and can provide counseling or Documented Oral Counseling to the employee without involving the department director or OER.<sup>7</sup>

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<sup>5</sup> This audit focuses on personnel investigations. Residents can direct other kinds of complaints to other City entities. For example, members of the public can submit complaints about criminal acts to the San José Police Department (SJPD), complaints about police misconduct to SJPD Internal Affairs and/or the Independent Police Auditor, and complaints about election ethics violations to the Ethics Commission.

<sup>6</sup> The Whistleblower Hotline opened in 2005 after several staff studies and Council direction. The Whistleblower Hotline received about 90 complaints in 2014. OER reviews the issue; if it is determined that an investigation is necessary, OER either investigates the complaint or refers it to departmental staff. OER refers outside resources to the complainant when applicable. The City Attorney and City Auditor regularly review summaries of complaints to the Whistleblower Hotline. Additional information about the Whistleblower Hotline is online at <http://www.sanjoseca.gov/index.aspx?NID=566>.

<sup>7</sup> OER is responsible for investigations and discipline matters for employees under the City Manager's appointing authority. Most City employees fall under the City Manager's appointing authority; a small number of City employees are under the

## Personnel Investigation Structure

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- Departmental staff, usually from a department's administrative division, can investigate and address more serious or complex issues. All departments have at least one Employee Relations Liaison<sup>8</sup> whose responsibilities cover investigations, discipline, and other personnel matters. Letters of Reprimand must be issued or approved by the Department Director (or designee), according to the Disciplinary Handbook provided to departments by OER.
- For the most serious misconduct/performance issues or patterns, OER and/or departmental staff carry out the investigation. OER requires the completion of a memorandum that documents the investigation. OER reviews and approves recommendations for formal discipline (i.e., salary step reduction, suspension, demotion, or dismissal).
- All allegations or reports of harassment, discrimination, workplace violence, substance abuse, and being under the influence while on duty require the involvement of OER, as outlined in the Disciplinary Handbook. OER also approves all cases in which the City puts an employee on administrative leave.
- Departments must follow the notification requirements in the Municipal Code and go through the appeals process, if applicable. Employee appeals of disciplinary action are heard by the Civil Service Commission.<sup>9</sup>

Exhibit 4 shows the investigative process for classified employees from complaint to investigation to discipline.

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appointing authorities of the City Attorney, City Auditor, Independent Police Auditor, City Clerk, or Director of Retirement Services. OER would only investigate the staff of these appointing authorities if asked; the appointing authorities would carry out any disciplinary action, if applicable.

<sup>8</sup> Throughout the report, we will use the term "department liaisons" to refer to Employee Relations Liaisons.

<sup>9</sup> Sworn employees may instead elect to appeal through arbitration.

**Exhibit 4: The City’s Investigative Process for Classified Employees**

<b>COMPLAINT</b>	→	<b>INVESTIGATION</b>	→	<b>DISCIPLINE</b>
<ul style="list-style-type: none"> <li>• <b>How to complain:</b> phone (Whistleblower Hotline), web form, email, fax, or in-person</li> <li>• <b>Complain to:</b> Supervisor, Department Director, department liaison, OER               <ul style="list-style-type: none"> <li>○ Some policies specify where to complain for specific issues,<sup>10</sup> but OER can receive all complaints</li> </ul> </li> </ul>		<ul style="list-style-type: none"> <li>• <b>Authority:</b> City Charter, Muni Code, City Policy Manual</li> <li>• <b>Procedures:</b> Discipline Handbook for Employee Relations Liaisons, Discipline Handbook for Managers/Supervisors</li> <li>• <b>Conducted by:</b> Departments (sometimes in conjunction with OER) or OER</li> </ul>		<ul style="list-style-type: none"> <li>• <b>Authority:</b> City Charter, Muni Code, City Policy Manual</li> <li>• <b>Procedures:</b> Discipline Handbook for Employee Relations Liaisons, Discipline Handbook for Managers/Supervisors</li> <li>• <b>Given by:</b> Appointing authority; departments, with approval by department liaisons or Department Directors (for classified employees)</li> <li>• <b>Types of Discipline:</b> <ul style="list-style-type: none"> <li>○ <b>Informal:</b> Counseling, Documented Oral Counseling, Letter of Reprimand</li> <li>○ <b>Formal:</b> Salary Step Reduction,<sup>11</sup> Suspension, Demotion, Dismissal</li> </ul> </li> </ul>

Source: Auditor analysis

**Role of the City Attorney’s Office, Human Resources Department, and Civil Service Commission**

OER’s practice is to provide a draft Notice of Intended Discipline to the City Attorney’s Office for review before carrying out dismissals of classified employees. OER also consults with the City Attorney’s Office when an employee appeals to the Civil Service Commission and as needed in difficult situations requiring legal expertise. In addition, the Department of Human Resources helps maintain and monitor personnel files, but it is not involved in conducting personnel investigations

<sup>10</sup> The Discrimination and Harassment Policy (in the City Administrative Policy Manual) specifies how to make discrimination and harassment complaints against various parties, including Council Appointees and Councilmembers. It states that employees have the option of complaining to the Equal Employment Opportunity Commission (EEOC) and the Department of Fair Employment and Housing (DFEH). The Council Conduct Policy (in the Council Policy Manual) specifies the investigative and disciplinary process for Councilmembers.

<sup>11</sup> Salary reduction as a form of discipline is not applicable to those represented by the Police Officers’ Association.

or carrying out discipline. Classified employees who are disciplined can appeal to the Civil Service Commission.<sup>12</sup>

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### San José's Investigation Structure Is Not Unusual

In general, other jurisdictions have personnel investigation structures similar to San José's. Yet there are minor differences across all organizations. For example:

- San José's OER oversees investigations of employees as well as relations with labor unions, as in other jurisdictions, like Santa Clara County, the City of Long Beach, and San José State University.
- San José has a decentralized system in which both OER and the departments conduct investigations, and complainants can make allegations to different places—OER, departments, Independent Police Auditor, City Attorney, City Council, etc. Many other jurisdictions, such as the City of Los Angeles, the City of Sacramento, and the City of Long Beach, have similarly decentralized systems.
- San José's OER and departments conduct investigations of all allegations except those of criminal conduct; those are typically handled by the police department. This is similar to all of the jurisdictions we reviewed. It should be noted that some jurisdictions have specific offices to handle complaints about harassment and discrimination, such as the City of Los Angeles and San José State University.
- San José has a Whistleblower Hotline, similar to some other jurisdictions. Like OER, the City of Sacramento, the City and County of San Francisco, and the City of Long Beach document complaints received on their hotlines and decide how to move forward most appropriately (no investigation due to insufficient or irrelevant information, investigation by office receiving complaint, or referral to a department for investigation). These other jurisdictions house their hotlines in auditors' offices as opposed to offices like OER.

Local jurisdictions vary as to where the investigations function is located within the organization. It is sometimes a separate office, sometimes co-located with HR, sometimes co-located with other employee relations functions. By locating the investigations function within the City Manager's Office, San José affords its investigation function a degree of independence and direct access to the City Manager.

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<sup>12</sup> Sworn employees may instead elect to appeal through arbitration.

## Finding 2 Additional Written Policies Are Needed

### Summary

The City has existing written policies and procedures in some areas, but not in others. The existing procedures are brief. The Administration should document its broad investigation principles in a City-wide Administrative Policy. To guide its own staff and departmental staff, OER should also document details in additional written procedures for:

- Administering the Whistleblower Hotline
- Maintaining impartiality and objectivity during investigations
- Protecting confidentiality in light of legal challenges to blanket confidentiality instructions
- Hiring external investigators
- Investigating high-ranking officials
- Deciding whether to move forward with an investigation.

During the course of this audit, OER drafted updates to City-wide policies and its internal procedures.

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### OER Should Update Its Policies and Procedures

The City has some existing written policies and procedures. In this audit, we focused on the completeness of such policies and procedures.

The City does not have a City Administrative Policy that addresses personnel investigations. We recommend that the City adopt an Administrative Policy that describes the administration of the Whistleblower Hotline and broadly documents investigation principles (i.e., on maintaining objectivity, protecting confidentiality, hiring external investigators when needed, investigating high-ranking officials, and deciding whether to move forward with an investigation) to be followed by all staff who conduct investigations in the City.

### The Disciplinary Handbook Was Last Updated in 2010

The *Disciplinary Handbook for Employee Relations Liaisons*, last updated in 2010, is the most comprehensive document the City currently has regarding investigations, but it focuses more on discipline, notifications, and appeals procedures than on the investigation that City staff manages *before* carrying out discipline. The Handbook is issued by OER and directed to staff across all departments who conduct investigations. A shorter version of this Handbook is also targeted at supervisors and managers.



The Disciplinary Handbook provides *some* guidelines for departmental staff on how to carry out an investigation. The guidelines delineate questions for an initial assessment, steps to plan the investigation, interview questions, and notification and documentation requirements. The Handbook explains that represented employees who are the subjects of allegations can bring union representatives to interviews if they reasonably believe that disciplinary action is likely (*Weingarten* Rights) and that they have the right to request pre-disciplinary *Skelly* conferences, which provide employees an opportunity to respond and provide relevant information before the implementation of intended discipline. For formal discipline, the Handbook stipulates that the employee conducting the investigation must prepare a discipline packet—including the investigation memorandum, a draft Notice of Intended Discipline, and any supporting documentation—that must be approved by OER and the Department Director or designee.<sup>13</sup>

### **OER's Internal Procedures Are Brief**

According to OER, its own analysts also follow the procedures in this Handbook for classified employees and, where applicable, for unclassified employees.

In addition to the Disciplinary Handbook, OER also has its own internal procedures. They are very brief and were last revised in 2009. OER should update and bolster its procedures and document the issues discussed throughout this Finding.

OER's internal procedures list the roles and responsibilities of the OER employee receiving the complaint, OER director, and OER analyst conducting the investigation. It mandates the creation of a file, requires the completion of a memorandum documenting the investigation that must be approved by the OER Director, and requires that a proposal to stop an investigation must also be approved by the OER director.

### **The City Lacks Policies and Procedures for Its Whistleblower Hotline**

The Whistleblower Hotline is administered by OER, but it lacks policies and procedures. OER should document how it takes in complaints, when and how to refer complaints to other departments or outside agencies, and how to investigate. Several Council memoranda from 2004 and 2005 address the initial set-up of the Whistleblower Hotline, but current practices have not been incorporated into a City-wide Administrative Policy or OER's internal procedures. OER's public

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<sup>13</sup> The Handbook focuses on classified employees and on employees under the appointing authority of the City Manager. Unclassified employees do not have the same notification and due-process rights as classified employees do. For example, unclassified employees may need to receive a *Lubey* hearing: In *Lubey v. City and County of San Francisco*, the court ruled that when the probationary employee's dismissal is based on charges of misconduct that stigmatize his/her reputation, seriously impair his/her opportunity to earn a living, or might seriously damage his/her standing or associations in his community, the employee is to be given an opportunity to request a *Lubey* hearing under the Due Process Clause of the Fourteenth Amendment in order to clear his/her name. This *Lubey* hearing was not addressed in OER's materials.

Employees under appointing authorities other than the City Manager (City Attorney, City Auditor, Independent Police Auditor, and Director of Retirement Services) are investigated by those appointing authorities, who may consult, coordinate, or request assistance from OER if they desire. However, this practice is not documented.

website describes some aspects of operating the Whistleblower Hotline but does not provide detailed guidance for its own staff.

Many of OER's existing investigation practices can apply to handling whistleblower complaints, so augmenting its procedures to cover the Whistleblower Hotline would not require extensive new work.

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### **The City Should Emphasize the Importance of Impartiality and Objectivity in Conducting Investigations**

Our interviews with responsible staff show that OER and departments strive to maintain objectivity. However, OER's written policies are brief and do not provide guidance on the importance of impartiality and objectivity.

The Disciplinary Handbook provided by OER to departments discusses objectivity. It states that objectivity ought to be a criterion when considering who should conduct an investigation. It also states that in reviewing recommendations for discipline, the department should consider whether it has conducted a fair and objective investigation of the situation. However, the Disciplinary Handbook does not delve further into maintaining objectivity in conducting investigations. Further, OER's brief internal procedures do not contain any information on impartiality and objectivity.

We recommend that the City document a high-level statement about impartiality and objectivity in a City-wide Administrative Policy. In addition, OER should provide more detailed guidance in the Whistleblower Hotline procedures, the Disciplinary Handbook, and OER's internal procedures on maintaining impartiality and objectivity in conducting investigations. This would also bolster the perception of independence among the public.

### **Other Agencies Address Impartiality More Clearly in Their Policies**

Other jurisdictions, such as the City and County of San Francisco Office of the Controller, City Services Auditor Division's Whistleblower Program and the City of Los Angeles, clearly emphasize in their procedures manuals the importance of independence. For example, San Francisco's Whistleblower Program manual states:

*[The] standard [of independence] requires that the individual and organization performing an investigation be free, in fact and appearance, from any impairment of objectivity and impartiality...*

*On occasion, every investigator may experience difficulty in remaining objective and impartial due to official, professional, personal, or financial relationships that may affect the extent of the investigation, limit disclosure of information, or otherwise weaken the investigation. Every investigator also carries preconceived opinions or biases that relate directly or indirectly to particular individuals,*

*groups or organizations. Investigators should be sensitive to inherent prejudices that may affect their work, and discuss them with their supervisors before undertaking an investigation. Investigators must also consider appearance issues. For example, if an investigator served with the subject in a recent previous assignment, there may be the appearance of bias even though none actually exists. When there is a reasonable likelihood the integrity of the investigation may be compromised by the real or apparent bias of the investigator, the investigation should be assigned to someone else.*

Further, the Los Angeles City Personnel Policy and the California State University Office of the Chancellor's Executive Order 1096 codify the need for an impartial and uninvolved reviewer before finalizing an investigation.

Finally, San Francisco's Whistleblower Hotline Manual explains:

*Lack of independence also may be attributed to the position of the departments that are referred Whistleblower Program complaints for investigation. Since complete assurance of impartiality and objectivity is necessary, allegations must be examined by investigators before referring a complaint, and the complaint must be referred to officials outside and independent of the operation specified in the complaint. The preferred way to ensure this separation is to have an official at least two levels above the complaint subject conduct the investigation. At times, due to the size or remoteness of the subject department's operations, this is impractical. At isolated work locations, it may be too costly or time-consuming to send an investigator to investigate allegations of a less serious nature. In general, when the matter under investigation relates solely to a discrete unit within a department, and there is no indication that key management officials were aware of or in some manner directly responsible for the alleged impropriety, the Whistleblower Program may refer the matter for investigation. Conversely, an allegation against a department director should not be investigated by the subject department.*

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### **The City Should Emphasize to All Staff the Importance of Keeping Investigation-Related Information Confidential**

OER should examine ways to strengthen its provisions for protecting confidentiality during personnel investigations in light of recent legal decisions that invalidate blanket confidentiality instructions. We recommend that the City reiterate its commitment to confidentiality in a City-wide Administrative Policy stating its investigation principles. In addition, OER should provide more detailed guidance on maintaining confidentiality to its own staff and departmental staff in the Whistleblower Hotline procedures, the Disciplinary Handbook, and/or OER's internal procedures. These steps may prove particularly useful when the City

conducts sensitive investigations during which City staff may spread gossip and rumors that may damage the integrity of the process.

### **Importance of Confidentiality**

A presentation to the League of California Cities identifies strict confidentiality as a critical aspect of ensuring an effective investigation. Requiring confidentiality allows a climate more likely to support the investigative process and to protect process integrity such as freedom from taint or coaching of later witnesses. It also helps protect the complainant and the witnesses from harassment, retaliation, and intimidation; protects the subject of the complaint from public humiliation if claims are later found to be baseless; protects the privacy rights of third-party witnesses; and prevents the destruction or fabrication of evidence and cover-ups. Lastly, an employer should keep a matter confidential pursuant to the Equal Employment Opportunity Commission's *Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors*.

### **OER's Current Practices Promote Confidentiality**

OER has written procedures for maintaining confidentiality during the investigative process. In its Disciplinary Handbook, OER writes that discussions with employees regarding discipline should be conducted in a confidential setting. Disciplinary recommendations or actions, it states, should be treated as confidential information that is only shared on a "need to know" basis with supervisors, managers, department liaisons, OER staff, the City Attorney's Office, or others determined to be appropriate. The Handbook advises that investigators stress at the beginning and end of interviews the interviewees' strict duty to keep investigation information confidential in order to protect the integrity of the investigation. In order to do this, the Handbook instructs the investigator to explain to the interviewee that it is an official investigation, that deliberately failing to provide truthful information or attempting to influence the outcome of the investigation by discussing it with others can be the basis for disciplinary action, and that the interviewee is protected by the City's Non-Retaliation Policy. OER can investigate and discipline City employees who retaliate against applicants, officers, officials, employees, or contractors that have engaged in protected activities, like filing a complaint or a participating in an investigation.

In practice, OER can strongly encourage, but not mandate, that personnel maintain the confidentiality of interviews. Recent decisions from the National Labor Relations Board (NLRB) and the California Public Employment Relations Board (PERB) have invalidated blanket confidentiality instructions to workplace investigation participants as an unlawful interference on employee rights guaranteed by the Meyers-Milias-Brown Act (MMBA) and the National Labor Relations Act (NLRA).

### **The City Should Explore Options to Enhance Confidentiality**

In light of these legal decisions, a recent presentation to the League of California Cities offers some options for protecting the confidentiality of investigations. These include:

1. *Modify any policy that contains a blanket confidentiality provision... NLRB's General Counsel has suggested the following language may pass muster: "[Employer] may decide in some circumstances that in order to achieve these objectives, we must maintain the investigation and our role in it in strict confidence. If [Employer] reasonably imposes such a requirement and we do not maintain confidentiality, we may be subject to disciplinary action up to and including immediate termination."*
2. *Implement a policy that requires documentation, on a case-by-case basis, of the reasons for deciding to instruct the witnesses to keep an investigation confidential.*

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### **The City Should Have Written Policies and Procedures About When to Hire External Investigators**

According to Lisa Guerin, author of "The Essential Guide to Workplace Investigations," and a presentation by Burke, Williams & Sorensen LLP to the League of California Cities, an agency should consider hiring an outside investigator or attorney when the accused is a high-ranking official. An agency may also consider hiring from outside when more than one employee complains about the same serious problem; when the complaining employee has publicized the complaint in the workplace or in the media; when the complaining employee has hired a lawyer, filed a lawsuit, or filed charges with a government agency; or when no internal investigator can investigate the complaint fairly and objectively.

The presentation to the League of California Cities suggests the use of external investigators when high-ranking staff are involved, since it would limit liability exposure, remove potential conflicts of interest, prevent retaliation, and decrease potential perceived bias of an internal investigator. The League of California Cities presentation advises that cities define the scope of an investigation and the investigator's role in both internal and external investigations.

### **OER's Practices for External Investigations**

OER has hired external, independent investigators in the past. We recommend the City articulate a high-level policy statement on external investigators in a City-wide Administrative Policy. In addition, we recommend OER provide more detailed protocols to its own staff and departmental staff in the Whistleblower Hotline procedures, the Disciplinary Handbook, and/or OER's internal procedures for hiring external investigators based on the needs of the investigation and a consideration of the skills, objectivity, and workload of OER staff. The written

protocol should explain the process for selecting the external investigator, as well as the investigator's roles and responsibilities.

According to OER, it considers hiring an outside investigator when it is looking into sensitive investigations, such as those of high-level officials or those involving particularly serious allegations. If OER anticipates any negative public attention to the City as a result of an investigation, the Director of OER informs the City Manager of the allegations and may discuss with him or her whether an internal or external investigator would be more appropriate to conduct the investigation.<sup>14</sup>

On other occasions OER may decide to contract out an investigation based on workload. For example, if an important investigation arises while OER is participating in time-intensive labor negotiations requiring support from most or all of its staff, OER might consider hiring an independent investigator to look into the allegation.

Otherwise, the City Manager and OER do not have set criteria for deciding between an internal or external investigator; they make this determination on a case-by-case basis.

OER has contracted with an outside investigator on two occasions in the last five years.<sup>15</sup> For these rare instances, it sent out a Request for Proposals (RFP) for independent investigator firms in 2010. OER has ten vendors in its pool, from which it may choose to hire on an as-needed basis.

### **Other Agencies Specify External Investigator Procedures in More Detail**

Other jurisdictions provide clearer guidance on the process of hiring external investigators and their role in investigations. For example, the Los Angeles City Administrative Code lists the appropriate skills, authority and responsibilities of an independent investigator in harassment/discrimination complaints against members of its City Council:

*(a) When the Special Committee [on Investigation Oversight] authorizes an investigation into a complaint of discrimination or sexual harassment against an elected official, an independent investigator will be selected from a list of prominent and respected citizens who are not employed by the City. The individuals on the list should have expertise in the fields of employment law, law enforcement, government or other, related, fields. The list shall be developed, maintained and periodically updated by the Personnel Department, the Chief*

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<sup>14</sup> OER would not follow these procedures for complaints against Council Appointees, who are not under the appointing authority of the City Manager. OER staff stated that when allegations are made against a Council Appointee, it would refer the issue to the Mayor, whose office would likely hire an external investigator.

<sup>15</sup> Other personnel investigations engaging external investigators could be conducted under the auspices of the City Attorney's Office.

*Legislative Analyst and the City Attorney's Office. The list and all updates shall be adopted by the full Council.*

*(b) When a matter is referred to an independent investigator, the Personnel Department shall select an investigator by lot from those who were on the list prior to the complaint being received and who are currently available to accept the assignment. The independent investigator will then select his or her own staff to assist with the investigation.*

*(c) The independent investigator will be responsible for conducting the investigation. He or she shall have access to any City employee who may provide relevant information, including the complainant and the accused and any witnesses provided by them. The investigator shall also have access to City resources and documents as required to conduct the investigation. Should necessary access be denied, the investigator shall report back to the Special Committee for further instructions.*

*(d) The independent investigator shall have the power to subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and order by subpoena the production of documents, records or other materials relevant to the investigation.*

*(e) At the completion of the investigation, the independent investigator shall submit to the Special Committee a comprehensive report containing an investigative summary of the evidence received, an analysis of the evidence, factual findings, a conclusion and recommendations regarding resolution of the complaint.*

*(f) Each fiscal year, there shall be included in the Contract Services Account of the budget of the Personnel Department funds to support any independent investigator authorized by this Section.*

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### **The City Should Outline Policies and Procedures for Investigating High-Ranking Officials**

Many of the policies discussed in this Finding—on maintaining impartiality, protecting confidentiality, hiring external investigators, and establishing clear criteria for screening complaints—may be especially beneficial for sensitive investigations involving high-ranking officials.<sup>16</sup>

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<sup>16</sup> Examples of high-ranking City of San José officials include deputies and department heads under the appointing authority of the City Manager, including high-ranking police officials, who might otherwise be presumed to be investigated by Internal Affairs. Council Appointees may also be considered high-ranking officials, but they are not under the appointing authority of the City Manager and thus would not be investigated by OER.

For example, the Council Policy Manual lists clear procedures for investigating and disciplining Councilmembers.<sup>17</sup> It states that the Council may select an independent investigator to assist in conducting the investigation; the independent investigator would be managed by the committee or individual designated by Council to conduct the investigation.

In addition, the City Administrative Policy Manual provides courses of action for making harassment and discrimination complaints against Council Offices and Council Appointees. It does not, however, describe how and when an external independent investigator would be hired to investigate those allegations.

We recommend the City make transparent how it would investigate high-ranking officials by including a broad policy statement in a City-wide Administrative Policy. In addition, we recommend OER formulate detailed internal procedures for such investigations that define high-ranking officials and establish approval steps. For example, if the investigation involved employees *outside* of the City Manager's appointing authority, OER may be called to assist or may take in the initial complaint. Its staff should receive guidance on whose approvals are needed before taking next steps. For high-ranking employees *within* the City Manager's appointing authority, in our opinion the City Manager's explicit approval should be documented. OER should consider hiring an external investigator.

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### **OER Should Document Its Policies and Procedures for Determining Whether a Formal Investigation Is Necessary**

According to Guerin's *Essential Guide to Workplace Investigations* and a presentation by Hirschfeld Kraemer LLP, employers should only launch formal investigations when there is a dispute over what happened, if alleged misconduct is serious, and/or if similar complaints have warranted formal investigations in the past.

Although our interviews with OER analysts and departmental staff indicate existing practices for screening complaints, we recommend the City adopt a policy statement on the general intake of complaints. In addition, we recommend OER document detailed criteria and procedures for deciding whether to move forward with investigating an allegation in the Whistleblower Hotline procedures, the Disciplinary Handbook, and OER's internal procedures.

OER determines on a case-by-case basis whether an allegation should be closed without investigation, investigated by OER, or referred to departments with or without OER involvement. OER's internal procedures broadly touch upon the

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<sup>17</sup> If a member of the City Council submits an allegation concerning a violation of law or policy to the Rules Committee, and the City Council determines by majority vote that an investigation is warranted, it may designate a standing or special committee or one of its members, including the Mayor, to conduct the investigation. If the Rules Committee, with confirmation of the City Council, determines that further investigation is required, the Mayor shall appoint an ad hoc committee, to be staffed by administrative and legal staff; if the Mayor is the subject of the charges, the committee shall be appointed by the Vice Mayor.



intake of complaints, the assignment of investigations by the Director, and the documentation, notification, and investigation procedures to be undertaken by the analyst/investigator. They mention that the person taking the complaint should “[get] enough details to conduct [the] investigation... If it is decided that an investigation not be completed, this must be approved by the Director.” OER’s internal procedures and Disciplinary Handbook do not discuss further when and how OER or departments would determine not to investigate a case.

### **Other Agencies Offer Clearer Criteria for Launching Investigations**

Other jurisdictions clearly state that not all complaints must be investigated and provide criteria to consider when deciding whether or not to move forward with an investigation. For example, the manual for staff in the Whistleblower Program at the San Francisco Office of the Controller states:

*Circumstances which may justify not opening a case file include those instances where, after discussing the case, the investigator and the complainant agree there is no basis for an investigation. This may occur when the investigator can demonstrate to the complainant that the conduct described is not improper under applicable laws or regulations, and therefore a complaint would be frivolous. It also may occur when the complainant and investigator agree that the matter should be handled by another organization and that the complainant will take the matter there directly...*

*If the investigator cannot write a viable allegation after consulting with others in the office, reviewing applicable regulations, and perhaps talking with counsel, it may be there is nothing to investigate in the first place.*

Also, the Duty Manual of the San José Police Department states that when a member of the public makes an allegation against a Department member with fact patterns that are clearly “implausible” or “incredible,” the Department will classify the allegation as a “Decline to Investigate” Concern. Objective criteria for such concerns include:

- The concern is patently hallucinatory and fantastical, and the investigator cannot ascertain an alternate set of facts that might explain the complainant’s experience in a way that grounds it in reality.
- The complainant’s description is grossly illogical and not capable of separation into discrete facts capable of objective verification or observation.
- The concern hinges on the existence of a broad conspiracy without articulating specific facts capable of investigation.

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**OER Should Update and Augment Its Policies and Procedures**

Best practices require that the City have appropriate policies in place to ensure the integrity of personnel investigations. While the City has existing written policies and procedures, they are brief in addressing investigations.

**Recommendation #1: To improve the structure of personnel investigations, OER should include a statement of the City's investigation policy in the City Administrative Policy Manual. Further, OER should develop procedures for OER staff and departmental staff who conduct investigations that address the following for all employees:**

- a) The general process of conducting investigations,**
- b) Administering the Whistleblower Hotline**
- c) Maintaining and asserting the investigator's impartiality and objectivity**
- d) Protecting confidentiality in light of recent legal decisions invalidating blanket confidentiality instructions**
- e) Hiring external investigators**
- f) Investigations of high-ranking City officials**
- g) Determining whether to move forward with an investigation.**

During the course of this audit, OER drafted updates to its City-wide and internal policies and procedures to address this recommendation.

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## **Finding 3 Additional Investigative Trainings and Updated Materials Would Benefit City Staff Who Conduct Investigations**

### **Summary**

Both OER analysts and departmental personnel conduct investigations. OER analysts are required to attend at least one formal training and have attended approximately one investigation-oriented training per year, but they primarily receive on-the-job training. Department liaisons can benefit from formal training but are not required to receive it. In our opinion, OER should set minimum training requirements and make regular trainings available to all City staff who conduct investigations.

During the course of this audit, pursuant to our recommendation, OER drafted updates to its internal procedures related to training requirements and scheduled an investigation training geared towards departmental staff for the end of 2015.

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### **Both OER Analysts and Departmental Personnel Conduct Investigations**

Both OER analysts and personnel in other departments conduct investigations, as explained in Finding 1. Within departments, managers and supervisors can investigate basic concerns (e.g. tardiness). Department liaisons can investigate and address more serious allegations (e.g. use of a City vehicle for personal business). Departments may consult with OER for any questions or review of documentation. They must consult with OER regarding serious allegations (i.e. harassment, discrimination, workplace violence, substance abuse, and/or being under the influence while on duty) and to receive approval to place an employee on administrative leave. OER analysts conduct investigations of serious allegations either independently or in collaboration with departmental staff and/or other OER analysts.

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### **OER Analysts Primarily Receive On-the-Job Training**

OER's training program for OER analysts consists of formal training and one-on-one, on-the-job training. According to OER, all OER analysts are required to attend a one-time formal training provided by an employment law firm as soon as practicable after the start of their employment, and attend additional investigations trainings throughout their careers. They receive a 2-page list of internal procedures as well as the Disciplinary Handbook for Employee Relations Liaisons. Their ongoing training is primarily informal and conducted one-on-one with more experienced OER analysts.

OER staff explained that new analysts typically begin by shadowing more experienced analysts. Before they can conduct investigations independently, they start to lead investigations while being observed by and receiving feedback and guidance from more senior analysts. OER supervisors are readily available to address questions and concerns, and review documentation. According to OER, in assigning investigations to their staff members, supervising analysts consider objectivity, skills, and workload.<sup>18</sup>

Other jurisdictions, such as San José State University, list ongoing training requirements for investigators at all levels. The California State University Office of the Chancellor's Executive Order 1096 states:

*All Investigators shall receive annual training regarding such issues as the laws governing Discrimination, Harassment and Retaliation... For matters involving Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking, the Investigator shall also receive annual training on how to conduct an investigation process that protects the safety of the Complainant(s) and the University community.*

Although OER analysts attend approximately one investigations-oriented training per year, they are not currently required to attend such trainings on a regular basis. We recommend OER determine whether more frequent or comprehensive training would help analysts hone their investigative skills, and set minimum training requirements in its internal procedures.

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### Department Employee Liaisons Can Benefit from Formal Training

Departments investigate or review a majority of the personnel issues reported in the City—55 percent of issues the reported to OER, compared to the 45 percent conducted by OER. To improve the skills of departmental staff who conduct personnel investigations, OER should implement a formal training requirement and make formal training available to departmental staff on a regular basis.

Although some departmental staff who conduct investigations attend trainings out of their own initiative, they are not required to have even the one formal training session that is required for OER analysts.

Training for departmental staff is primarily informal. According to the Disciplinary Handbook and interviews with OER staff and departmental staff, OER is available in all instances as a resource; departmental staff may consult with OER for questions or document review. For investigations of serious allegations or investigations with

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<sup>18</sup> In line with Recommendation #1, OER can benefit from having more specific written criteria for these considerations. For instance, supervisors can more specifically consider: Would this analyst have a bias towards any party involved in the investigation? Does this analyst have the necessary experience and expertise? Does this analyst have the capacity to take on an investigation of this magnitude?

which the department liaison is not experienced, OER would likely conduct the investigation or would work with the department liaison to conduct the investigation. The liaison can learn by shadowing the OER analyst and/or leading parts of the investigative process (e.g., interview) while receiving guidance and feedback from OER. Department Liasons may also be trained by their predecessors in the department.

**Recommendation #2: To ensure that City staff who conduct investigations improve essential skills and remain up to date on applicable laws, regulations, and policies, OER should set minimum training requirements and make regular trainings available to OER analysts and departmental staff.**

During the course of this audit, pursuant to our recommendation, OER drafted updates to its internal procedures related to training requirements and scheduled an investigation training geared towards departmental staff for the end of 2015.

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# Conclusion

In San José, OER oversees both employee and labor relations, and City departments share responsibility for conducting personnel investigations. This investigation structure is not unusual. Though the City of San José has written policies and procedures in some areas, they are brief. The Administration should document its broad investigation principles in a City-wide Administrative Policy and also document details in procedures for OER staff and departmental staff. Both OER analysts and departmental staff conduct investigations of City employees. OER analysts and departmental staff primarily receive on-the-job training. OER should set minimum training requirements and make regular trainings available to all City staff who conduct personnel investigations.

## RECOMMENDATIONS

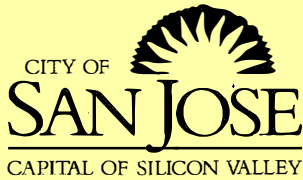
Recommendation #1: To improve the structure of personnel investigations, OER should include a statement of the City's investigation policy in the City Administrative Policy Manual. Further, OER should develop procedures for OER staff and departmental staff who conduct investigations that address the following for all employees:

- a) The general process of conducting investigations
- b) Administering the Whistleblower Hotline
- c) Maintaining and asserting the investigator's impartiality and objectivity
- d) Protecting confidentiality in light of recent legal decisions invalidating blanket confidentiality instructions
- e) Hiring external investigators
- f) Investigations of high-ranking City officials
- g) Determining whether to move forward with an investigation.

Recommendation #2: To ensure that City staff who conduct investigations improve essential skills and remain up to date on applicable laws, regulations, and policies, OER should set minimum training requirements and make regular trainings available to OER analysts and departmental staff.



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# Memorandum

**TO:** Sharon W. Erickson  
City Auditor

**FROM:** Jennifer Schembri  
Director of Employee  
Relations

**SUBJECT: RESPONSE TO THE AUDIT  
"PERSONNEL INVESTIGATION  
STRUCTURE: AUGMENTING  
POLICIES AND TRAINING CAN  
IMPROVE THE PROCESS"**

**DATE:** November 10, 2015

Approved 	Date 
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The Administration has reviewed the Audit *"Personnel Investigation Structure: Augmenting Policies and Training Can Improve the Process"* and is in agreement with the recommendations identified in the report, which are close to completion. The Administration appreciates the City Auditor's Office work on this audit.

This memorandum will address both audit recommendations and discusses the measures that the Administration has taken to adopt the recommendations.

## **BACKGROUND**

The City of San Jose employs approximately 7,200 individual employees. Pursuant to the City Charter, the majority of the City's employees are under the City Manager's appointing authority. The City Manager delegates to the Director of Employee Relations the responsibility to conduct personnel investigations and to review and approve formal disciplinary actions for City employees under the City Manager's appointing authority. The Office of Employee Relations shares responsibility for conducting investigations with individual departments and provides guidance and oversight of most investigations conducted by departments. We appreciate the City Auditor's recognition that the investigation structure is not unusual and mirrors structures in other entities.

## RECOMMENDATIONS AND ADMINISTRATION'S RESPONSE

**Recommendation #1: To improve the structure of personnel investigations, OER should include a statement of the City's investigation policy in the City Administrative Policy Manual. Further, OER should develop procedures for OER staff and departmental staff who conduct investigations that address the following for all employees:**

- a) **The general process of conducting investigations,**
- b) **Administering the Whistleblower Hotline**
- c) **Maintaining and asserting the investigator's impartiality and objectivity**
- d) **Protecting confidentiality in light of recent legal decisions invalidating blanket confidentiality instructions**
- e) **Hiring external investigators**
- f) **Investigations of high-ranking City officials**
- g) **Determining whether to move forward with an investigation.**

### *Administration Response:*

The Administration agrees and has made progress to be in compliance with Recommendation #1. For guidance on matters related to investigations, there is a Discipline Policy in the City Administrative Policy Manual, an Employee Relations Liaison Handbook and internal procedures within the Office of Employee Relations. These documents are in the process of being revised to better describe the general process of conducting investigations, maintaining and asserting the investigator's impartiality and objectivity, protecting confidentiality, hiring external investigators, investigating high-ranking City officials, and determining when to move forward with an investigation. In addition, the Office of Employee Relations has drafted a Whistleblower Hotline Policy that will be included in the City Administrative Policy Manual and an investigations principles statement that will be posted to the Office of Employee Relations' website. These updates are expected to be completed by the end of 2015.

**Recommendation #2: To ensure that City staff who conduct investigations improve essential skills and remain up to date on applicable laws, regulations, and policies, OER should set minimum training requirements and make regular trainings available to OER analysts and departmental staff.**

### *Administration Response:*

The Administration agrees and has made progress to be in compliance with Recommendation #2. The Office of Employee Relations staff members attend at least one training per year on investigations on average, including a full day comprehensive training on investigations conducted by an outside law firm upon hire. OER will continue to make regular trainings available to OER analysts and will communicate such training opportunities to departmental staff. The Office of Employee Relations has developed and scheduled for December 8, 2015, a training for City staff who conduct investigations that will improve essential skills and will ensure that staff remain up to date on applicable laws, regulations, and policies. Such training, or

Sharon W. Erickson

November 10, 2015

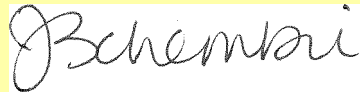
**Response to the Audit - "Personnel Investigation Structure: Augmenting Policies and Training Can Improve the Process"**

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its equivalent, will be considered a requirement of staff that conduct personnel investigations and will be offered at least once per year.

### **CONCLUSION**

This Audit identified areas in which existing policy could be enhanced by having previously undocumented practices incorporated into existing or new policy and/or procedures. The Administration has made significant progress in implementing the recommendations made by the Auditor thus far and expect them to be implemented by the end of 2015.



JENNIFER SCHEMBRI

Director of Employee Relations

For questions regarding this memorandum, please contact Jennifer Schembri at (408) 535-8154.