



OFFICE OF INSPECTOR GENERAL
City of Albuquerque

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Informative Investigative Case Synopsis

FILE NO: 24-0059-C

SUBJECT MATTER: Allegation of harassment and retaliation by a manager for participation in a previous investigation.

STATUS: Final

INVESTIGATOR: M. Santistevan

DocuSigned by:

Melissa R. Santistevan

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INSPECTOR GENERAL
OFFICE OF INSPECTOR GENERAL

August 23, 2024

Date of Completion

See cautionary statement

VICTOR GRIEGO, CPA
ACCOUNTABILITY IN GOVERNMENT
OVERSIGHT COMMITTEE CHAIRPERSON

November 14, 2024

Date of Review

DISTRIBUTION:

Honorable Mayor
President City Council
Chief Administrative Officer
City Councilors
Director Council Services
City Attorney
Department Director
Members, Accountability and Government Oversight Committee
File

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EXECUTIVE SUMMARY

The Office of Inspector General (OIG) operates following the Association of Inspectors General (AIG) standards, outlined in City Ordinance 2-17-2. These standards mandate conducting investigations, inspections, evaluations, and reviews with impartiality and objectivity, aiming to prevent and detect fraud, waste, and abuse in city activities while upholding independence.

As defined in the Inspector General Ordinance §2-17-3 fraud is the knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. Waste is the thoughtless or careless expenditure, mismanagement, or abuse of resources to the detriment of the City. Abuse is the use of resources or exercise of authority contrary to rule or policy, or knowingly inconsistent with any established mission or objectives for the resource, or the position held by the person exercising the authority. Abuse does not necessarily involve fraud or illegal acts.

On March 6, 2024, the Office of Inspector General (OIG) initiated an investigation into the alleged retaliation against the reporting party (RP) by a City Manager (M1) for participation in a previous investigation.

The OIG determined that the allegations contained elements of abuse and that it was appropriate for the OIG to conduct a fact-finding investigation.

The purpose of the investigation was to substantiate or not substantiate, through the collection of sufficient evidence, the allegations of harassment and retaliation, by a manager (M1), for participation in a previous investigation.

The OIG could not substantiate retaliation but the investigation does reveal a pattern that creates the perception of harassment but that may not be considered retaliation given that E1 questioned RP about the events related to the subject matter of an OIG's report previously published.

ABBREVIATIONS

City: City of Albuquerque
E1: City Employee
E2: City Employee
E3: City Employee
M1: City Manager
RP Reporting Party
OIG: Office of Inspector General

INTRODUCTION

The mission of the Office of Inspector General (OIG) is to promote a culture of integrity, accountability, and transparency throughout the City of Albuquerque (City) to safeguard and preserve public trust. Investigations, inspections, evaluations, and reviews are conducted following AIG Standards.

Complaint

Allegation of harassment and retaliation by a City Manager (M1) against the Reporting Party (RP) for participation in a previous investigation.

SCOPE AND METHODOLOGY

Scope: Interactions between M1 and RP between October 5, 2024, 2024 and July 25, 2024.

The methodology consisted of:

- Assess the allegations
- Obtain and review evidence in support of the allegation
- Prepare an investigation work plan
- Review the Inspector General Ordinance, Article 17
- Review the Code of Conduct, 301
- Review Whistleblower Policy, Article 7
- Interviews

This report was developed based on information from interviews and the OIG's review of selected documentation and records.

INVESTIGATION

Allegation:

Allegation of harassment and retaliation by M1 against RP for participation in a previous investigation.

Authority:

Article 17: Inspector General Ordinance

Code of Conduct

Article 7: Whistleblower Policy

Summarized Evidence:

Timeline of events	
Note: RP has an employee (E1) who is complaining and providing information to the subject	
Date	Event
10/6/2023	The previous Division leader's resignation effective
10/7/2023	The subject made the acting Division leader
10/31/2023	OIG publishes report regarding Whistleblower retaliation of previous Division leader and reporting party substantiated
11/1/2023	The subject asked the reporting party the whole story of Gateway, then proceeded to say that they handled it all wrong. The subject said they should have gone to the mayor because this was his "baby".
3/4/2024	OIG initiates investigation of violations of AI 7-57 Military Veteran's Initiative for the Division leader hiring process
3/5/2024	The subject tells the reporting party not to stay longer, but that the reporting party should go in a year.
3/5/2024	The subject tells the reporting party that if the City couldn't insure buildings, they would blame the reporting party.
3/12/2024	The subject is going to other staff and obtaining information and sharing it with other staff
3/14/2024	The subject was hired as the Division leader to start on 03/24/24
3/14/2024	OIG contacts the subject for inquiry on investigation and to inquire about promises involving classification
3/26/2024	Around 3/15/24, the Subject changed method of dealing with reporting party and began to praise work of the team now, not being overly critical.
4/22/2024	The subject advised staff of a pending move in June 2024.
5/15/2024	The subject held a meeting on 5/14/24 with the reporting party and the Reporting party brought up that the Subject advised them to retire early. The subject said that is not what was meant by the comment.
5/17/2024	The subject scheduled and canceled one manager meeting since September 2023. The subject had a one-on-one with the reporting party.
5/29/2024	OIG received an anonymous complaint regarding Planning Gym
5/30/2024	The subject sends an email to the reporting party requesting to know if the reporting party advised the employee (E1) to direct a complainant to their supervisor because Planning's Gym usage policy was not a Loss Prevention Matter. The Reporting Party also advised the employee to show the subject the original email before doing anything.

7/10/2024	Air Quality employee advises employee (E1) that the reporting party is giving wrong advice on asbestos but the reporting party states that Air Quality Rules are not the same as OSHA rules.
7/11/2024	Employee (E1) attempts to get the GSD employee to tell Subject that the reporting party is not doing the job.
7/11/2024	Reporting Party advises Subject of events. The subject comments that RP hasn't been able to reach the subject because the subject has been so busy.
7/11/2024	Employee (E2) sent the Subject an email to remove another employee (E3) from the office but employee (E1) already knew that this was occurring.
7/19/2024	The subject has alienated the reporting party and is communing with the employee (E1) who was providing the subject with information.
7/22/2024	Employee (E1) approaches the reporting party and states " Why did it take you so long to say something to me if you knew I was going to the subject". The reporting party responds, " I was gathering information and I believe you are trying to get me in trouble."
7/23/2024	Employee (E1) sends an email to the Subject and cc's the Reporting party requesting a meeting with the subject.
7/23/2024	The reporting Party responds to the employee (E1) in an email stating that concerns should be escalated using the chain of command and advised the employee that concerns were not expressed with the reporting party.
7/23/2024	Both Subject and employee (E1) call in sick
7/25/2024	The subject requests a meeting with the reporting party and removes their authority and advised that the meeting will be followed with an email of the expectations moving forward
7/25/2024	Subject sends an email of expectations, no LOI issued
7/25/2024	Employee (E1) is in the office talking to other staff about the reporting party

Policies:

In conducting our investigation, the OIG considered the following as a basis for our conclusion.

Retaliation, as defined by the City of Albuquerque's Central Human Resource Labor/Relations Office and presented as employee training is "Any action a reasonable employee would believe, is intended to discourage protected activity".

Article 17 Inspector General Ordinance

Article 17 provides the Office of Inspector General the authority to prevent and deter fraud, waste, and abuse through investigations or inspections. Section 2-17-12 (A) states all city officials, employees, and contractors shall promptly notify the Inspector General of an instance of theft or other disappearance of cash, check, or property, misfeasance or nonfeasance, defalcation, and improper governmental actions as defined in the Whistleblower Ordinance and non-compliance with federal and state law, city ordinances and city regulations of which they are aware.

Section 2-17-12 (D), (E), and (F) state: No person shall retaliate against, punish, or penalize any other person for complaining to, cooperating with, or assisting the Inspector General in the performance of the office. Each violation of this article is a criminal violation subject to the provisions of §1-1-99 ROA 1994. Any official or employee who violates the Inspector General

Ordinance may be subject to discipline as may be specified in the Merit System Ordinance or any applicable collective bargaining agreement.

301. Code of Conduct

Section 301.3 Standards of Conduct states “Employees shall in all instances maintain their conduct at the highest personal and professional standards in order to promote public confidence and trust in the City and public institutions and in a manner that merits the respect and cooperation of coworkers and the community.”

Section 301.17 Supervision of Employees states “Employees with supervisory duties or responsibilities shall, in all instances, ensure that all supervisory actions comply with the provisions of the Merit System Ordinance, Labor-Management Relations Ordinance, Personnel Rules and regulations, applicable legislation, and relevant judicial/administrative decisions.”

Article 7 Whistleblower Policy

Section 3-7-2 Findings and Intent states “the public health, safety, and welfare are better protected by instituting a procedure for reporting improper governmental action, encouraging such reporting and protecting those who properly report such action from retaliation. Proper reporting will provide the opportunity to minimize any adverse impacts of improper governmental actions.

Section 3-7-3 defines retaliation or retaliatory action as any disciplinary action taken because (1) an employee lawfully disclosed information or filed an allowable complaint pursuant to this article, (2) an employee testified or assisted or is scheduled to testify or assist in any investigation, action or proceeding relating to the lawful disclosure of information by another employee pursuant to this article, or (3) the supervisor who imposed the disciplinary action believed the employee receiving the disciplinary action was involved in the activities described in parts (1) and (2) of this paragraph and such belief was the primary reason for the disciplinary action.

Analysis:

The OIG created a timeline of events starting in October 2023 and ending in July 2024. The events were derived from interviews and emails.

RP expressed that M1’s questioning of RP about a previous investigation and then providing M1’s personal opinion showed management’s dissatisfaction and set the tone that employees should not question upper-level decisions.

RP stated that at a meeting on March 5, 2024, M1 advised RP that if the City could not insure City-owned buildings they (Administration) were going to blame RP.

RP stated that in a meeting with M1, RP indicated having one year to be eligible for retirement at which point M1 told RP that they should retire and not stay. RP discussed their concerns about this comment with M1 in May 2024 and M1 implied that it was not meant in the manner received.

The timeline of events reveals that E1 engaged in activities that undermined RP and perpetuated the perception of an alliance between M1 and E1.

The OIG sought physical evidence to support the claims against RP by M1 and E1 and received an email, dated July 23, 2024, from E1 to M1 requesting a meeting, where RP was cc'd. RP was not included in any meeting between E1 and M1. There was no evidence to support that the meeting occurred or what this meeting was about making it difficult for the OIG to validate ongoing personnel issues with RP.

On July 25, 2024, a meeting occurred between RP and M1. The OIG reviewed evidence related to this meeting between M1 and RP. RP characterized the meeting as a "reprimand". An email documenting the meeting was sent to RP after the meeting. The email reflects that M1 will be included in all team meetings and one-on-one meetings RP holds and that M1 will direct RP's team to send M1 all information related to safety and building/property issues. M1 directed RP to immediately advise M1 of all safety and building/property issues, etc. RP is required to cc M1 on all emails sent to any manager, division manager, director, or outside entity as it relates to Division functions. Our interview with RP revealed that RP feels M1's actions are an attempt to negate RP's authority and diminish their ability to effectively lead the team.

During an interview with RP, concerns were raised that M1's decision not to formalize the "reprimand" with a Letter of Instruction was an intentional attempt to conceal retaliation.

The OIG reviewed the employee file for RP, noting previous evaluations did not indicate issues with the work performance of RP. Additionally, there was no evidence to support any disciplinary action against RP.

The timeline of events creates the perception of differential treatment but may not result in retaliation. Retaliation intended to discourage a protected activity would violate the City's Code of Conduct, Article 7, and Article 17.

Finding:

The OIG could not substantiate harassment or retaliation as defined in Article 7, Section 3-7-3 since there is no official record of disciplinary action being taken against RP. However, the investigation reveals a pattern conducive to the perception of differential treatment of RP by E1 based on E1's questioning of RP, about their participation, and the events surrounding the subject matter of an OIG report previously published.



City of Albuquerque
Accountability in Government Oversight Committee
P.O. Box 1293 Albuquerque, New Mexico 87103

Cautionary Statement of the Inspector General's Report, File No. 24-0059-C

Upon the Accountability in Government Oversight Committee (Committee) review and vote to not approve the Report prepared by the Office of the Inspector General (OIG), titled "Allegation of harassment and retaliation by a manager for participation in a previous investigation.", File No. 24-0059-C, dated August 23, 2024 ("Report"), the Committee provides this cautionary statement as inclusion with the published Report. This cautionary statement is issued and included in the published Report, pursuant to City of Albuquerque Ordinance § 2-10-5(L).

The Committee met on November 14, 2024 to review and consider the Report. In its review of the Report, the Committee found the OIG lacked sufficient jurisdiction under the Inspector General Ordinance § 2-17-1 et seq. to investigate one or more of the allegations contained in the report. For this reason, by vote of 5-0, the Committee did not provide approval of the Report. Readers are advised to review this published Report and its content with the understanding that the Committee did not approve this Report.

Sincerely,

A handwritten signature in black ink, appearing to read 'Victor Griego', with a stylized flourish at the end.

Victor Griego, CPA
Chair, Accountability in Government Oversight Committee
City of Albuquerque

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