

## **Investigation into Allegations of Reprisal: Reprisal Not Found, But Lessons Learned**

**Date:** October 7, 2019

**To:** Audit Committee

**From:** Auditor General

**Wards:** All

### **REASON FOR CONFIDENTIAL INFORMATION**

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The attachment to this report involves the security of property belonging to the City of Toronto. This report deals with personal matters about an identifiable person. This report is about litigation or potential litigation that affects the City of Toronto.

### **SUMMARY**

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This report provides the results of an extensive investigation into an allegation of reprisal from a former City of Toronto employee whose position was terminated. The former employee alleged their position was terminated because they previously made a wrongdoing complaint and another reprisal complaint.

The Auditor General's Office (AGO) has the responsibility to investigate reprisal, in coordination with the City Manager's Office. Reprisal investigations are complex. Termination is one of the most severe types of reprisal, and therefore the Auditor General initiated an investigation into the allegations.

The investigation involved the review of hundreds of documents, emails, text messages, and Briefing Notes related to the case. The AGO also interviewed eight current or former staff members, some more than once, who had direct or indirect knowledge and/or involvement in the employee's termination. The employee whose employment was terminated was also interviewed.

The Auditor General has concluded that there is not sufficient evidence to support the allegation of reprisal. However, there are lessons learned. This report is being issued to communicate important lessons and to assure City employees, City Council, senior management, and the public know that all reprisal allegations are taken very seriously and are investigated to the fullest extent.

## **RECOMMENDATIONS**

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The Auditor General recommends that:

1. This recommendation is included in Confidential Attachment 1.
2. City Council request the City Manager to include in performance appraisals of managers and supervisory staff an evaluation of whether they are giving accurate and timely feedback to staff who are not meeting expectations.
3. City Council direct that the confidential information contained in Confidential Attachment 1 remain confidential in its entirety, as it contains personal identifiable information.

## **FINANCIAL IMPACT**

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There is no financial impact associated with Attachment 1 or Confidential Attachment 1 to this report.

## **DECISION HISTORY**

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The Toronto Public Service By-law, Chapter 192, adopted December 31, 2015, requires that employees immediately report wrongdoing that has occurred. The By-law requires the Auditor General in consultation with the City Manager, investigate allegations of reprisal.

## **COMMENTS**

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### **Disclosure of Wrongdoing and Reprisal Protection**

The Toronto Public Service By-law, Chapter 192, requires that employees immediately report wrongdoing that has occurred. Wrongdoing includes the "mismanagement of City resources or assets in a wilful, intentional, or negligent manner that contravenes a City policy or direction by Council," and "violations of the City's Conflict of Interest provisions" or "breach of public trust".

An employee who reports wrongdoing or reprisal in good faith is not to suffer any reprisal, regardless of whether their wrongdoing allegation is found to be substantiated or not.

Reprisal is any measure taken or threatened as a direct result of disclosing or being suspected of disclosing an allegation of wrongdoing. Reprisal can include disciplinary measures, demotion, suspension, intimidation or harassment, or any punitive measure that adversely affects the employee's employment or working conditions, including termination.

The Auditor General, in consultation with the City Manager, is required to investigate allegations of reprisal.

A strong whistleblowing system is one of the best mechanisms available for uncovering wrongdoing. There are many benefits to the City in having an effective whistleblowing system, most importantly being the early detection and/or prevention of harmful misconduct. Other non-quantifiable benefits are strengthened internal controls, improved policies and procedures, increased operational efficiencies.

A whistleblowing system is only effective, if employees feel their job is not in jeopardy when they report suspected wrongdoing. Reprisal protection helps to ensure employees feel safe when reporting potential wrongdoing. Thus for the Fraud and Waste Hotline to function effectively as the whistleblowing system, there must be no reprisal from reporting suspecting wrongdoing.

The Auditor General takes all allegations of reprisal seriously. Reprisal allegations take a great deal of time to investigate because of the complexities – by nature, retaliation is often difficult to prove. Although reprisal was not found, there are many benefits of a reprisal investigation, one of which is closure for those involved. Reprisal investigations also help to retain public confidence; if there was no reprisal the public needs to know, and if there was reprisal, the public needs to feel confident that the City is committed to taking appropriate steps to address the allegations.

## **CONTACT**

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## **SIGNATURE**

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Beverly Romeo-Beehler  
Auditor General

## **ATTACHMENTS**

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Attachment 1: Investigation into Allegations of Reprisal: Reprisal Not Found, But Lessons Learned

Confidential Attachment 1: Investigation into Allegations of Reprisal: Reprisal Not Found, But Lessons Learned

Management's Response to the Auditor General's Report Entitled "Investigation into Allegations of Reprisal: Reprisal Not Found, But Lessons Learned" - Public

Management's Response to the Auditor General's Report Entitled "Investigation into Allegations of Reprisal: Reprisal Not Found, But Lessons Learned" - Confidential