

II. Confidential Whistleblower Hotline: The City should maintain a confidential whistleblower hotline for any person to report any unethical or illegal conduct, inappropriate conduct, conflicts of interest, violations of City of Council behavioral or administrative codes and any inappropriate request or demand from any public servant, elected or otherwise.

The EDRP recommends that:

- A. The city should change the name of the current “Fraud, Waste and Abuse Hotline” to one that reflects the scope of the reports it is available to receive and so as to encourage reporting.
- B. The city should address how to allow confidentiality for those who want it and where it is available under Ohio Open Records laws.
- C. The city should make clear to callers the applicability of city and state whistleblower protections afforded them.
- D. The existence and availability of the hotline should be promoted, encouraged and well publicized.
- E. The City Manager’s office shall operate the hotline, will take action on the information provided and where appropriate report back to the caller on action taken.

The EDRP recommends that the City maintain a confidential whistleblower hotline for any person to report any unethical, inappropriate or illegal conduct, conflicts of interest, violations of City of Cincinnati or Council behavioral or administrative codes, and any inappropriate request or demand from any public servant, elected or otherwise. It should be operated through the City Manager’s office.

Benefit of Whistleblower hotlines.

Whistleblower hotlines serve a number of functions. They are a valuable vehicle by which the organization can learn of concerns and then investigate. They are a means by which the caller can raise issues, ask questions, and seek guidance from the appropriate office. As Paul Nick advised the panel, whistle blower hotlines help build an ethical culture and have a deterrent effect. They can also increase trust in the organization and its leaders. For instance, in one local non-profit organization, the first call to the new hotline was a complaint against the CEO: a charge that the organization was overbilling on a contract. The organization investigated the charge, and reported back to the caller that as the contract involved was a cost for services contract, no overbilling would result. Such processes reinforce trust in the organization and its leaders. They support morale, and assure employees that they are heard without fearing or facing repercussions and in so doing reduce turnover.

Current Hotline. The City's currently maintains a "Fraud, Waste and Abuse Hotline" through Internal Audit. According to its website, the hotline "allows employees and citizens to safely and anonymously alert the City to this sort of behavior. Employees calling the hotline are protected under Ordinance No. 468-1987, which prohibits retaliation against employees for whistle blower actions." The hotline is used infrequently, and even then the subjects of the calls tend to be about matters other than fraud waste and abuse, such as those related to human resources.

Expanded Hotline. The EDRP does not see the need to add an additional hotline. However, additional measures are required to ensure the City Manager's hotline is better utilized and publicized.

The name of the hotline suggests its scope is limited. In order to encourage callers to report matters beyond fraud, waste and abuse, such as concepts like unethical or inappropriate conduct and conflicts of interest, the EDRP recommends that the name of the hotline be changed to one that reflects the scope of the reports it is available to receive and so as to encourage reporting. The city manager should regularly promote the existence and availability of the hotline. Its use should also be encouraged and well publicized. One way the EDRP recommends that this occur is the city's including it, together with the attendant protections, in the training of city employees with respect to behavior expectations.

With this broader purpose, the City Manager's office should operate the hotline, and take action on the information provided.

Such action should include reporting back to the original caller/ informer. Management/Ethics experts advise that such "closing the loop" supports good employee morale. While personnel actions typically would be off limits, the city manager's designee can relate the organization's response. This could be as simple as saying that the appropriate party investigated the complaint, made findings and then took appropriate action. This approach reinforces for the employee that reporting the conduct or concern was the right thing to do, and that misconduct is unacceptable. Consequently, where appropriate, the City Manager's office should report back to the caller on action taken.

Whistleblower Protection The City Manager should also promote and train with respect to the whistle blower protection against retaliation that is afforded hotline callers under Ohio and Cincinnati laws. Ohio Rev. Code 4113.52 provides such protections (see <https://codes.ohio.gov/ohio-revised-code/section-4113.52>) that extend to the report of wrong doing related to development and related activities in the City of Cincinnati. Additionally, the City of Cincinnati's municipal code (C.M.C. 308-79) provides anti-retaliation protections for City employees who report suspected wrongdoing. There are also numerous whistleblower programs at the federal level, including through the Department of Justice's Office of the Inspector General (see <https://oig.justice.gov/hotline/whistleblower-protection>).

These programs typically protect federal employees and federal contractors that report wrongdoing and protect against retaliation.

Confidentiality

It is not enough to encourage reporting. Because of the sensitive nature of reporting illegal, unethical, or inappropriate conduct, it is important for the city to address how to allow confidentiality for those who want it and its availability to them. One such way the EDRP recommends is to notify those providing information by phone or online that Ohio Open Records laws may preclude their identity remaining confidential if they provide their name. Again, the City now advises: "If the caller wishes to remain completely anonymous, Internal Audit will collect no data that could be tied to the caller." The City also so advises now on its hotline website: "Employees calling the hotline are protected under Ordinance No. 468-1987, which prohibits retaliation against employees for whistle blower actions." <https://www.cincinnati-oh.gov/manager/internal-audit/internal-audit-fraud-hotline/>. While this hotline does allow callers to choose not to disclose their identity, an anonymous report is harder to investigate

Sources used:

Timothy J. Kloppenborg and Laurence J. Laning, *Achieving Success in Non-Profit Organizations*, Ann Marie Tracey, Chapter 4 – Walking the Talk: Serving Stakeholders with Ethics, Values and Good Governance Business Expert Press (2014).