



# **Human Rights Administration, Compliance Monitoring, and Investigation**

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**City of Tulsa Internal Auditing**  
May 2012



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## City of Tulsa Internal Auditing

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Ron Maxwell, CIA, CFE  
Chief Internal Auditor

A handwritten signature in black ink that reads "Clift Richards".

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Clift Richards, CPA  
City Auditor

### **AUDIT TEAM:**

Steve Wagner – Audit Senior  
Steve Jackson, CPA – Audit Manager

## **Introduction**

The Human Rights Department is the City of Tulsa department, designated by Title 5 of the Tulsa Revised Ordinances, which receives and investigates complaints of discrimination in the areas of employment, housing, and public accommodations.

## **Scope and Objectives**

The audit scope was to evaluate the process of overall administration of the Human Rights Department and to assess the policies and procedures used by department personnel to carry out the responsibilities as prescribed in Title 5, Chapter 1 of the Tulsa Revised Ordinances.

The audit objectives were:

- Determine if procedures are sufficient to properly coordinate the Human Rights Department functions,
- Assess the methods used for protecting confidential information,
- Review the process for identifying and prioritizing compliance and investigation assignments,
- Determine whether procedures will ensure all monitoring and investigation duties are completed, and
- Evaluate procedures that ensure issues in monitoring and investigation assignments are properly resolved.

## **Audit Methodology**

The audit was conducted in accordance with the “International Standards for the Professional Practice of Internal Auditing” of the Institute of Internal Auditors. During the audit planning, Internal Auditing evaluated the internal controls in effect for the Human Rights Department carrying out the responsibilities designated to them in Title 5 of the Tulsa Revised Ordinances. Analysis and testing was performed on record retention, security practices and procedural compliance with Title 5, Chapter 1, Section 107 discrimination investigations.

## **Conclusions**

Based on the results of this audit, it is the overall opinion of Internal Auditing that internal controls and the policies and procedures for fulfilling the duties as prescribed in Title 5, Chapter 1 of the Tulsa Revised Ordinances for the Human Rights Department are satisfactory. No audit findings were disclosed.

Title 5, Chapter 1, of the Tulsa Revised Ordinances and the Mayor’s Executive Orders delineate the Human Rights Department’s job responsibilities. During our review of the department’s internal control practices, we observed certain policies and procedures that could be improved. These improvement opportunities, related recommendations, and management responses are presented in the following pages of this report.

## **Improvement Opportunities, Recommendations, and Management Responses**

### **Improvement Opportunity 1**

Time parameters for completing tasks in the departmental Policies and Procedures Manual do not agree with Title 5 of Tulsa Revised Ordinances.

#### **Summary:**

Time parameters for completing compliance investigation tasks defined in the departmental Policies and Procedures Manual do not agree with the time parameters for the tasks defined in Title 5 of the Tulsa Revised Ordinances (TRO). Title 5, Chapter 1, Section 107.B of TRO states, "Such notice shall advise that the respondent may file a verified answer to the complaint with the compliance official within ten (10) days of receiving such notification." The departmental Policies and Procedures Manual states, "Such notice shall advise that the respondent may file a verified answer to the complaint with the Human Rights Department Compliance Investigation Administrator within thirty (30) days of receiving such notification." In our review of case files, we noted a letter to a respondent requested a response to interrogatories within 14 days.

Title 5, Chapter 1, Section 107.C of TRO states, "Within sixty (60) days after filing of any complaint, the compliance official shall make an investigation of the complaint." The departmental Policies and Procedures Manual states, "Human Rights Department will complete the investigation within ninety (90) days of receipt of the complaint."

#### **Recommendation:**

The Human Rights Department Policies and Procedures Manual should be revised to provide for the time parameters to complete tasks that agree with the time parameters set forth in Title 5, Chapter 1, Section 107 of the TRO.

#### **Response:**

Information noting time parameters set in Title 5, Chapter 1, Section 107 are the same as what is in the HRD Policy and Procedures Manual (Master Copy). Letter providing for 14 days is not consistent with Policy. Policy set forth in Title 5 Revised Ordinance is being followed. All letters request a response to be received within 10 days.

**Improvement Opportunity 2**

Compliance investigation case files are not being numbered in accordance with the departmental Policies and Procedures Manual.

**Summary:**

The system for numbering compliance investigation case files is different than the numbering system prescribed in the departmental Policies and Procedures Manual. The Policies and Procedures Manual provides for a prefix letter that describes the type of complaint being investigated...“E” for employment complaints, “H” for housing complaints, and “P” for public accommodation complaints. In our sample of case files reviewed from 2009-2011, all identification numbers of the case files began with the letter “U”.

**Recommendation:**

The system for numbering compliance investigation cases should comply with procedures provided in the Policies and Procedures Manual.

**Response:**

Internal Policies and Procedures Manual revised to reflect current practices (as of 8/2011) – “E” for Employment complaints, “H” for Housing complaints and “P” for Public Accommodation. The policy has been revised to reflect a prefix letter of E, H, or P effective 1/2012. The “U” used previously was an indicator that the case was filed with HRD.

### **Improvement Opportunity 3**

Compliance investigation case files do not consistently include complete documentation.

#### **Summary:**

The hard copy compliance investigation case files do not always contain all of the supporting documents and other information that explain the procedures performed, conclusions reached, and corrective actions recommended. Some of the information was located in the electronic database while other explanations could only be obtained from verbal recollections of case history from department personnel.

#### **Recommendation:**

Management should consider initiating a policy of including copies of all compliance investigation documentation and other information in a permanent, hard copy file. Management should review and sign off all closed case files before the files are stored. A checklist of file contents should be developed to help ensure the case information is complete and filed in an organized manner to facilitate locating information in the file.

#### **Response:**

Policy has been initiated according to recommendation and checklist is attached.  
(See Exhibit A)

#### Policy Management Review of Closed Cases

Management's review of closed cases to documenting detailed historical information

1. Centrally located (locked file cabinet in plans room)
2. Systematically arranged (UIN in sequential order)
3. Maintain copies of all compliance investigation case information in the hard copy case file
4. File must be completed and initialed off on by the Compliance Investigation Administrator before the closed file is stored.
  - a. Use the checklist of case file contents

**Improvement Opportunity 4**

There are no written policies and procedures that address purging and destroying dated Compliance Investigation case files.

**Summary:**

The departmental policies and procedures for purging and destroying aged Compliance Investigation case files are not included in the departmental Policies and Procedures Manual. Without a written procedure, purging and destruction of aged case files may not be carried out according to the controls established by department management.

**Recommendation:**

The departmental Policies and Procedures Manual should include detailed procedures for the retention, destroying, and purging of Compliance Investigation case files. The City of Tulsa Legal Department should be consulted for their input on the Compliance Investigation case retention period.

**Response:**

We are in compliance with internal COT Policy for purging and destroying aged records (Compliance Investigation case files). In light of criteria above will visit with City Legal and include an internal HRD Policy to fully address concerns noted.

The retention policy of the department is as follows for HUMAN RIGHTS COMPLIANCE AND INVESTIGATIVE RECORDS. Records of formal and informal complaints investigated and rendered by Human Rights staff in accordance with established municipal, state and federal policies to make compliance rulings or determinations regarding a variety of matters not otherwise covered by the retention manual shall be on a Retention Schedule of 5 years + expiration of any applicable appeal + 90 day.

### **Improvement Opportunity 5**

Closed Compliance Investigation hard copy case files are not secured under the supervision of a file custodian.

#### **Summary:**

There are no locks on the two file cabinets which contain the closed Compliance Investigation case files. Closed case files are not checked out when retrieved from file storage. Also, a file custodian has not been assigned responsibility for maintaining the closed case files.

The hard copy case files are the official records of documentation for a Compliance Investigation for the Human Rights Department. If a file would be lost or misplaced, reconstruction of the contents of a closed case file could be difficult.

#### **Recommendation:**

Compliance Investigation hard copy case files should be transferred to lockable file cabinets. Also, responsibility should be assigned to a single custodian responsible for unlocking and checking out files to authorized personnel.

#### **Response:**

The single file custodian is the Office Assistant III and the case files are located in a secure locked file cabinet located in the locked hard-walled 08-034 office.



## **Improvement Opportunity 6**

Dates of alleged discrimination offenses are not always provided in discrimination complaints filed with the Human Rights Department.

### **Summary:**

Title 5 of the Tulsa Revised Ordinances specifies the time requirements for filing discrimination complaints. The dates of alleged discrimination offenses were not always clearly defined in the sample of cases examined in our review. Accordingly, this increases the likelihood of findings and corrective actions recommended in Human Rights Department compliance investigations being challenged by Respondents claiming the Department was operating outside the time frames provided in Title 5 of the Tulsa Revised Ordinances.

### **Recommendation:**

The Human Rights Department Management should consider consulting with the City Legal Department to determine if compliance investigations should be initiated for discrimination complaints that do not provide incident dates or provide incident dates that conflict with the time provisions specified in Title 5 of the Tulsa Revised Ordinances.

### **Response:**

A date was recorded for when complaint was received. We have added a date to the checklist (See Exhibit A) requesting a specific date of alleged discriminatory act as a result of barrier to access.

If the City of Tulsa operated under a strict interpretation of the law and refused to investigate any claim made outside of the 180 days, the issue of noncompliance would not be settled until the next grievance is filed, rendering the nature of compliance with the ADA as reactive in nature instead of proactive—as is the intent of the law. That is, the ADA requires compliance regardless of whether a grievance has been filed.

The effect of the 180-day deadline is a foreclosing an aggrieved party's right to file a formal complaint with a federal agency and/or a court of law. It does not prevent corrective action by the City of Tulsa in the event that a complaint is received outside of the 180-day window.

The City should take affirmative and proactive steps to mitigate complaints and ensure compliance with the ADA, which is required to be implemented regardless of the presence of a complaint. By being proactive in addressing noncompliance ADA matters outside of the 180-day window demonstrate the City's commitment to compliance with the ADA and prevent the likelihood of the future costly court proceedings.

Will consult with Legal.

**Improvement Opportunity 7**

The departmental Policies and Procedures Manual does not address Title 5, Chapter 1, Section 111 of the Tulsa Revised Ordinances.

**Summary:**

The departmental Policies and Procedures Manual does not address Section 111 of TRO entitled, "Discrimination Against Qualified Persons with Disabilities Prohibited". The City of Tulsa policy is to be in full compliance with the Americans with Disabilities Act (ADA). Policies and procedures for addressing an alleged disability discrimination act or practice relating to City of Tulsa hiring practices or to City services, programs, and activities are included in Section 111. These policies and procedures, including prescribed time parameters, are not included in the Human Rights Department Policies and Procedures Manual. Procedures to address investigation of Section 111 ADA disability discrimination complaints are different than procedures to address external ADA complaints included in Section 105 of the TRO. Section 105 policies and procedures are included in the Policies and Procedures Manual and there could be confusion on investigations.

**Recommendation:**

If the Human Rights Department has been designated with the responsibility for investigating Section 111 disability discrimination complaints, written policies and procedures for conducting an investigation should be included in the departmental Policy and Procedures Manual and distinguished from the policies and procedures included in Section 105.

**Response:**

HRD Designated per Executive Order #92-19, additionally, per adopted ADA Study completed June 2011. We are committed to following policies and procedures in alignment with handling investigations of ADA related complaints.

We have adopted an internal Appeal policy to address areas not specifically noted in Title 5, Section 111.

If either party feels aggrieved by the Human Rights compliance official's determination, that party may, within five (5) days of receipt of such determination, appeal to the Human Rights Commission by filing a notice of appeal in the office of the City Clerk and providing written notice to the other party and to the Human Rights Department compliance official and Mayor. The Human Rights Commission shall, within ten (10) days of the receipt of the notice of appeal, set the matter for hearing.

Appeal. Within ten (10) days following the Human Rights Commission action, any party adversely affected by the Human Rights Commission action may appeal to the City Council by filing a notice of appeal in the office of the City Clerk and providing notice to the other party and the compliance official. The appeal shall be heard by the City Council at its next available meeting after the filing of the notice of appeal.

**EXHIBIT A**

**Complaint Case Checklist**

**(Follows this page)**



Compliance Division  
HUMAN RIGHTS DEPARTMENT

Case # \_\_\_\_\_ **COMPLAINT CASE CHECKLIST**  
Revised 2/15/12

- Receive complaint:** Date: \_\_\_\_\_ **Specific Date of Complaint:** \_\_\_\_\_
  - Telephone call or walk in:
  - Customer Care Center (CCC) date complaint taken: \_\_\_\_\_
  - ON-Line Americans with Disabilities (ADA) Grievance
  - Human Rights Department on-line complaint notice
- Initiate IQ file of case then transfer. From either Office Assistant or Intake Specialist.
- IQ Number: \_\_\_\_\_ Date of Discriminatory Act or Observation Made: \_\_\_\_\_
- A signed and notarized Complaint Affidavit (CA) is required to open a case. If there is no initial CA executed, forward Complaint Request Letter (CRL) to complainant (CP). CA must be signed by CP, notarized and return CA to Human Rights Department (HRD) within 30 days of CP receiving CRL. Date returned to HRD: \_\_\_\_\_. *(must have documented – certified letter receipt)*
- Advise CCC of complaint notification with a copy of CRL Date: \_\_\_\_\_
- After complaint has been received determine jurisdiction under Title V.
  - (H). Housing** – Must be located in City of Tulsa
  - (E). Employment** / City of Tulsa Contractor
  - (P). Public Access/Accommodation** throughout City of Tulsa (ADA Title II – Municipal and Title III – Commercial, must be located in the City of Tulsa)
- When HRD receives complaint it reviews the complaint to ensure that it meets the 180 days of the offending incident and discrimination is based on race, religion, color, national origin, age, disability, familial status or marital status.
- If HRD does have the jurisdiction to investigate a complaint two letters are written:
  - Letter from Director to CP acknowledging receipt of the complaint and that the HRD does have jurisdiction. *(SENT CERTIFIED)*
  - Letter from the Compliance Investigation Administrator to the respondent (RP) in the complaint advising the RP a complaint has been filed. The RP will usually be provided with a list of interrogatories to respond to within 10 days from receipt of the RP notice. *(SENT CERTIFIED)*
- After all initial correspondence is completed and it is determined that HRD does have jurisdiction the investigation is begun.
- A copy of all case documentation goes into IQ file. (file initiated by Compliance Office Asst)
- Initial contact with CP. Date: \_\_\_\_\_
- Initial contact with RP. Date: \_\_\_\_\_
- When investigation is complete write recommendation to the Director. Date: \_\_\_\_\_
- Director completes the Determination Letter (forward to CP, copy to RP. Date: \_\_\_\_\_)
- Close case IQ file. *(Compare formal case file with IQ Documentation for continuity)* Case Closed Date: \_\_\_\_\_ Date referred to Human Rights Commission: \_\_\_\_\_
- SIGN OFF:** \_\_\_\_\_

**Distribution List:**

Mayor Dewey Bartlett  
Councilor Jack Henderson  
Councilor Jeannie Cue  
Councilor David Patrick  
Councilor Blake Ewing  
Councilor Karen Gilbert  
Councilor Byron "Skip" Steele  
Councilor Thomas Mansur  
Councilor Phil Lakin, Jr.  
Councilor G. T. Bynum  
City Auditor Clift Richards  
Chief of Staff Jarred Brejcha  
City Manager Jim Twombly  
Director of Working In Neighborhoods Dwain Midget  
Council Administrator Drew Rees  
Council Secretary Dana Burks  
City Attorney David O'Meilia  
Sr. Assistant City Attorney Ellen Hinchee  
Director of Human Rights Dr. Lana Turner-Addison  
Director of Human Resources Erica Felix-Warwick  
Director of Finance Mike Kier  
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