

**CITY OF STOCKTON, CALIFORNIA
CITY MANAGER ADMINISTRATIVE DIRECTIVE**

Subject: WHISTLEBLOWER PROTECTION POLICY	Directive No. HR-44	Page No. 1 of 5
	Effective Date: 8/13/07	Revised from: 11/14/05 8/22/97

I. PURPOSE

The purpose of this administrative procedures directive is to define and affirm the City of Stockton's policy of protecting an employee of the City from being disciplined, discharged, or subjected to threats thereof, or otherwise discriminated against in retaliation for bringing forth, in good faith, charges of unlawful conduct or conduct in violation of any City policy, directive, ordinance, or Charter provision by any officer or employee of the City of Stockton. The procedures set forth in this directive are intended to supplement, not supplant, any other remedies available to employees pursuant to the City's Civil Service Rules and Regulations or at law.

II. POLICY

- A. "Whistle blowing" as used in this directive consists of three (3) possible employee actions:
1. The employee's good faith, reasonable reporting of the unlawful conduct or conduct in violation of any City policy, directive, ordinance, or Charter provision by fellow employees to the employer; or
 2. The employee's good faith, reasonable reporting to government authorities or other law enforcement or regulatory agencies the unlawful conduct or conduct in violation of any City policy, directive, ordinance, or Charter provision by the employer; or
 3. The employee's reporting that the employer has asked or required the employee to participate in unlawful activities or conduct in violation of any City policy, directive, ordinance, or Charter provision.
- B. There shall be no retaliatory discipline, discharge, or threats thereof in violation of this policy by the City of Stockton or any of its officers or employees against any employee who makes a good-faith report of reasonable charges of unlawful activities or conduct by any officer or employee of the City of Stockton; even if the investigation findings concludes that no violation occurred.

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- C. The City Manager of the City of Stockton, or authorized representative, shall not discipline, discharge, or make threats thereof, or otherwise retaliate against any employee of the City regarding compensation or terms, conditions, or privileges of employment on the basis of any good faith report made against any other officer or employee reasonably suspected of violating the Stockton City Charter, the Stockton Municipal Code, any City policy or directive and/or State or federal law.
- D. This policy shall not apply to and/or protect any employee who knowingly or with reckless indifference to the truth, makes a false report or provides false information to the employer, the news media, or any government or other agency or individual, nor shall it prevent the appointing authority from taking, directing others to take, recommending, or approving any personnel action against any employee based on a reasonable belief that the action is justified on the basis of separate evidence which shows any of the following:
1. The employee's complaint has disclosed information that he or she knows to be false or has disclosed information without regard for the truth or falsity thereof.
 2. The employee was the subject of an ongoing or existing disciplinary action or investigation prior to filing a report of unlawful conduct or conduct in violation of any City policy, directive, ordinance, or Charter provision.
 3. The employee has violated any other provision of the City's personnel rules, regulations, or policies, has failed to perform assigned duties, or has committed any other act unrelated to the disclosure that would otherwise be subject to disciplinary or other personnel action.
 4. Those involved in initiating, recommending, imposing, and/or implementing disciplinary action against the employee had no knowledge that a complaint of unlawful conduct or conduct in violation of any City policy, directive, ordinance, or Charter provision had been filed by the employee prior to initiating disciplinary action against the employee.

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III. PROCEDURE

- A. All complaints alleging a violation of this policy shall be promptly investigated. In the event that the City Manager determines that an investigation conducted by City staff would present a conflict of interest, an independent investigator shall be appointed.
- B. Complaint Procedure
1. Since the passage of time may result in the dissipation of evidence and/or make a complaint more difficult to investigate, an employee who believes that he or she has been subjected to discipline, discharge, or threats thereof in violation of this policy should file a written complaint within the first thirty (30) days from the date of the alleged retaliatory action with the City Manager or designee if the City Manager is the subject of the complaint, the employee may communicate the complaint to the City Attorney.
 2. The complainant should include:
 - (a) A detailed description of the alleged unlawful conduct or conduct taken in violation of City policies, rules, regulations, or charter provisions;
 - (b) The date(s), time(s), and location(s) and a detailed description of the alleged violation(s);
 - (c) The name(s) of the alleged offender(s);
 - (d) The name(s) of witnesses, if any;
 - (e) The identity of the employee, news media, or any government or other agency or individual to whom the report for which retaliatory action being threatened or initiated was made;
 - (f) A description of the nature of the alleged retaliatory action taken or threatened in violation of this policy;

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- (g) The person or persons initiating or threatening to initiate retaliatory action in violation of this policy;
 - (h) The facts which led the employee to believe that the person or persons initiating or threatening to initiate retaliatory action have knowledge of the employee's having made or filed any complaints of unlawful conduct or conduct in violation of any City policies, directives, ordinances or Charter provisions; and
 - (i) Any other information that would be of assistance in the investigation.
- 3. Upon receipt of a complaint, the City Manager, the City Manager's designee or the City Attorney shall investigate the allegations utilizing the process outlined in Section III. B. of this policy, in addition to conducting interviews of the following persons:
 - (a) The complainant;
 - (b) The person(s) who allegedly engaged in the unlawful and retaliatory conduct; and
 - (c) Any other person(s) the investigating officer believes to have relevant knowledge concerning the complaint.
- 4. Upon completion of the investigation, the investigating officer shall review all information gathered to determine whether the alleged conduct constitutes retaliatory conduct in violation of this policy, giving consideration to:
 - (a) All factual information gathered;
 - (b) The totality of circumstances, including, but not limited to, the nature of the alleged retaliatory action; and
 - (c) The context in which the alleged incident(s) occurred.

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5. The investigating officer shall provide the City Manager, the City Attorney or designee a report indicating that the allegations are “sustained,” “unsustained,” “unfounded,” or “exonerated.” Communication shall be relayed to the complainant and alleged offender as to the outcome of the investigation and any recommendations.
6. If it is determined by the investigating officer that retaliation occurred in violation of this policy, appropriate disciplinary action, up to and including discharge shall be instituted against the person(s) found to have engaged in such conduct.

C. Time Line for Completing Investigation

Complaints shall be investigated promptly and every effort will be made to complete the investigation within ninety (90) days.

APPROVED:

J. GORDON PALMER, JR.
CITY MANAGER