



Richmond City Council

The Voice of the People

Richmond, Virginia

Office of the Inspector General

November 17, 2021

Mr. Lincoln Saunders
Chief Administrative Officer
City of Richmond

The Office of the Inspector General (OIG) has completed an investigation within the Department of Public Works and the Department of Human Resources. This report presents the results of the investigation.

Allegations

An employee from the Department of Public Works, Urban Forestry Division made a complaint to the Office of the Inspector General that his immediate supervisor had been harassing him/her since his/her transfer to the division in March of this year. He/she alleges that on May 19, 2021, the discord between the two reached a point where his/her supervisor assaulted the complainant by striking him/her in the back. The employee further alleges he/she reported this incident to the departments' assigned Human Resources Generalist and to his/her department's Deputy Director. The employee alleges that the complaint was not investigated properly and that he/she is facing retaliation from his/her supervisor and Operations Manager for making a complaint.

Scope of Investigation

In consultation with the City Attorney's Office, the scope of this investigation is to determine if the complaints made by the complainant employee were investigated properly and within the policies of the City of Richmond.

Legal and City Policy Requirements

- 1) In accordance with the Code of Virginia §15.2-2511.2, the Inspector General is required to investigate all allegations of fraud, waste, and abuse.
- 2) City of Richmond Administrative Regulation 4.6 Anti-harassment Policy
- 3) City of Richmond Administrative Regulation 4.13 Violence in the Workplace Policy
- 4) City of Richmond Administrative Regulation 2.1 Anti-retaliation Policy
- 5) City of Richmond Administrative Regulation 4.23 Investigation (Complaint) Policy

6) Department of Human Resources-Internal Investigation Standard Operating Procedure

Background

During the course of this investigation, the investigator interviewed the complainant, six City of Richmond employees, and a temporary worker. The investigator identified the subject employee as an Arborist who supervises the complainant.

On May 19, 2021, the complainant alleges his/her supervisor was following him/her around the shop, which the complainant felt was harassment by the supervisor, which is why Human Resources was called on May 11. In addition to the two of them being in the shop, there was another supervisor present as well as a temporary worker. The second supervisor was going to open the cage for the complainant to get some equipment. The complainant was walking to the cage and his/her immediate supervisor was following him/her. The complainant stated he/she was yelling for the supervisor to stop following him/her. The employee stated that as he/she approached the cage, his/her immediate supervisor hit him/her in the back with a forearm. The complainant then left the shop and contacted the Deputy Director by phone to report the incident. The Deputy Director set up a meeting with the complainant employee and the Operations Manager on May 21, 2021.

During the meeting, the Deputy Director told the complainant that an investigation will be conducted in regards to his/her assault complaint. During this meeting, the complainant's work performance, attendance, and work assignments were discussed as well. The Operations Manager gave a document to the complainant which contained complaints about his/her job performance and action which were creating a hostile work environment. The complainant was asked to sign the document which he/she refused. The complainant stated he/she was not provided a copy of that document.

On June 4, 2021, the Deputy Director notified the complainant by phone that the investigation into his/her complaint of assault was unfounded. After receiving this information the complainant delivered a handwritten complaint to Human Resources alleging workplace harassment and the May 19, 2021, assault by his/her immediate supervisor. The Human Resource Generalist contacted the Deputy Director to see if he/she was aware of the complaint. The Deputy Director told the Human Resources Generalist that the complainant had contacted him/her and the department was conducting an investigation. The Deputy Director asked for a copy of the complaint, which the Human Resources Generalist provided.

The complainant contacted the Deputy Director by phone on June 7 or June 8 to inquire about his complaint to Human Resources. Subsequently, on June 8, 2021, a meeting was scheduled with the complainant, Human Resources Generalist, and the Deputy Director. During this meeting, the complainant asked the Human Resources Generalist if he/she was going to do an investigation into the complaint on May 19,

2021, and was told the Deputy Director had already conducted an investigation and it was not necessary for him/her to duplicate the effort.

On June 21, 2021, the complainant received a written reprimand for the incident which occurred on June 14, 2021 from the Operations Manager. The reprimand included references to three prior incidents that had received verbal counseling on May 27, 2021, June 2, 2021 and June 8, 2021. In the reprimand, the Operations Manager writes that the complainant was assigned to work in the flower beds at City Hall. During the conversation over the work required, the Operations Manager wrote,

“As we began to inspect this location, you became combative and argumentative. Then, you began pointing your finger and moved within three (3) feet of my personal space.

As you began to walk toward me in a threatening manner, I instructed you to move back and lower your voice. You then called me a ‘damn idiot’ and stated that you were going to do it your way. At that point, I informed you that your actions were inappropriate and you would receive a written reprimand.

At approximately 2:30 p.m., I visited City Hall to inspect your work. You were not at City Hall and none of your assigned tasks were completed.”

The reprimand cited 5.2 Grounds as the violation and listed numbers

1. Neglect of Duty
2. Absence without authorized leave
6. Insubordination or breach of discipline
17. Commit or threat to commit workplace violence

On July 9, 2021, the complainant received a written record of verbal counseling received for incidents on July 2, July 6, July 7, and July 8, 2021 from the immediate supervisor.

On July 15, 2021, the complainant received a written reprimand from the Operations Manager for an incident on July 14, 2021, for neglect of duty and absence without leave under 5.2 Grounds.

Another violation of the AR 4.13 Violence in the Workplace was discovered during the course of the investigation. On June 14, 2021, the Operations Manager alleges to be the victim of workplace violence involving the complainant employee as the suspect. The Operations Manager issued the complainant a written reprimand for the violation.

The investigator contacted the City Safety Office and spoke with the Director of Risk Management. Their office was not notified of the alleged assault allegation by the complainant on May 21, 2021, or the incident involving the Operations Manager as a victim of workplace violence on June 14, 2021, as required by AR 4.13

Findings

The allegation that the alleged assault and workplace violence, were not properly investigated in accordance with Administrative Regulation Number 4.13, Violence in the Workplace and Administrative Regulation Number 4.23, Investigation (Complaint) were substantiated.

The Deputy Director of DPW failed to immediately notify Human Resources and the City Safety Office as required by AR 4.13 Section III Responsibility of Supervisor. The Deputy Director of DPW initiated an investigation into workplace violence without notifying Human Resources in violation of AR 4.13, also violating the City of Richmond Code of Ordinances Chapter 4, Section 4.16 Powers of Investigation, which only authorizes the heads of all departments to conduct an investigation in connection with the performance of their duties and functions. The investigation contained discrepancies in both written documents and interviews conducted by the investigator. There was no documentation of any investigative actions to include a report of investigation from the Deputy Director of DPW.

The Human Resources Generalist violated AR 4.13 Violence in the Workplace and Human Resources Departmental Internal Investigation SOP by failing to initiate a Human Resources investigation as required in Section III. C. Responsibility of Human Resources 1. Conduct investigation of workplace violence incident. Upon receiving the complaint of an alleged assault and AR 4.23 Investigations (Complaint) Policy Section C. Investigations Process 1-5.

The Operations Manager violated AR 4.13 Violence in the Workplace Section III. A. Responsibility of Employees 2. Report all non-emergency incidents, threats, and harassment to supervisor and Human Resources within 24 hours of the incident or if the incident occurs on Friday after business hours, the employee shall report the incident on Monday (within 48 hours). It is outside the scope of the OIG investigation to determine whether the reported incident is an occurrence of workplace violence, but it found that it is improper for the Operations Manager to be the person that makes the determination of the allegation, the disciplinary action, and administers the discipline. The supervisor is required to follow the steps listed as an employee and notify their supervisor, as per AR 4.13.

The employee's complaints of harassment and retaliation are outside the scope of the OIG investigation.

Recommendations

Human Resources conduct an investigation into the allegations made by the complainant employee for assault, harassment and retaliation and the Human Resource Generalist not be involved in the Human Resources investigation.

Human Resources conduct an investigation into the allegations of violence in workplace made by the Operations Manager.

Appropriate disciplinary action taken for the violation of City of Richmond Code, Administrative Regulations, and Departmental Standard Operating Procedures.

Point of contact for this report can be reached at extension 1840.

Submitted,

A handwritten signature in black ink, appearing to read 'J. Osuna', with a large, sweeping flourish at the end.

James Osuna
Inspector General

CC: Robert Steidel, DCAO Operations
Bobby Vincent, Director of Public Works
Mona Adkins-Easley, Director of Human Resources
Honorable Members of City Council