



Minneapolis City Attorney Office  
Post Lawsuits Process Improvement  
Special Project

City of Minneapolis  
Internal Audit Department  
August 16, 2021

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## Executive Summary

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Internal Audit (“Audit”) conducted a risk assessment presented to the Audit Committee in June of 2020 in response to the killing of George Floyd and subsequent civil unrest. Repeated payouts by the City for police-related lawsuits arose as a potential indicator that controls to prevent lawsuits were not functioning as intended. To address this concern, Audit designed a project to test whether departments had mechanisms to address any control gaps that lawsuits exposed. The City Attorney’s Office, as the principal representative of the City in legal matters, served as the central contact point for this analysis.

The Audit scope and approach, testing results, management responses, and conclusion are discussed below, followed by a description of the post lawsuits process in the background section and a detailed description of observations and management’s action plans in the final section.

## Project Scope and Approach

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The objective of this review was to determine whether the process after a settlement, court award, or small claims award helps to provide insight into how to address control gaps and prevent future similar incidents from occurring. Specifically, the scope included:

- Reviewing available documentation, including post lawsuits policies and procedures to ensure they are current and adequately documented
- Assessing the process in place to ensure that impacted City departments or divisions address existing gaps to prevent future lawsuits and payouts
- Verifying ways the other departments that are not involved in a particular lawsuit are informed to ensure that they address identical control gaps that might exist to prevent recurring lawsuits and payouts
- Selecting a sample of lawsuits to determine whether the control gaps that caused them were properly addressed by the impacted departments.

Audit obtained a list of complaints from 1/1/2018 to 12/31/2020, and noted 90 complaints involving 8 departments, which resulted in a total payout of \$26,711,186.81. The amount included a single payout of \$20,000,000, which Audit removed from the sample selection to focus more on those settlement payouts that did not necessarily receive a lot of scrutiny, but in the aggregate resulted in a significant cost to the City. Audit selected 24 complaints covering all the impacted departments, and either interviewed or sent a survey to management to determine how the root causes of the complaints were addressed. Table 1 below summarizes the data received by impacted departments, number of complaints, and the total payouts.

**Table 1**

Departments	Number of cases	Payouts
City Council	2	\$9,401.69
CPED	4	\$191,000.00
Finance and Property Services	3	\$25,139.95
FIRE	4	\$845,999.00
Civil Rights	1	\$15,000.00
Police	52	\$24,614,371.70
Public Works	19	\$888,404.47
Regulatory Services	5	\$121,870.00
<b>Total</b>	<b>90</b>	<b>\$26,711,186.81</b>

## Results

As a result of this project, two areas for improvement were identified:

1. Post Lawsuits Policies and Procedures (HIGH)
2. Communication and information flow among City departments (HIGH)

Table 2 below contains the overall evaluation of the severity of the risk and the potential impact on operations. There are many areas of risk to consider including financial, operational, compliance, and reputational when determining the relative risk rating. Issues are rated as High, Moderate, or Low.

**Table 2**

**Post Lawsuits Process Improvement Special Project Observation and Issue Ratings**

	High	Moderate	Low
1. Post Lawsuits Policy and Procedures			
2. Communication and information flow among City departments			

**High Risk:** Some key controls do not exist or are not properly implemented and control environment is impaired; high risk improvement opportunities require immediate corrective action.

**Moderate Risk:** Adequate control environment in most areas; moderate risk improvement opportunities identified which require corrective action.

**Low Risk:** Satisfactory overall control environment; small number of lower risk improvement opportunities identified which do not require a management action plan.

The details of these observations are included within the *Observations and Management Action Plan* section of this report, beginning on page 7.

## Conclusion

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Internal Audit noted two areas for improvement in the Post Lawsuits process. These include opportunities to establish a formal post lawsuits process to ensure that impacted departments/divisions identify the root cause of a complaint, and to implement City-wide communication channels to share information among City departments.

Internal Audit would like to thank the City Attorney's Office and the selected departments for their cooperation and time during this engagement.

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## Background

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The City Attorney's Office's mission is to enhance public safety, serve justice, and vigorously represent the interest of the City of Minneapolis and its residents. They provide legal services to City officials, staff, departments, boards and commissions. The department civil and criminal divisions perform legal services and prosecute crimes, and manage several programs and initiatives:

- The Civil Division team provides legal services to the City's elected officials and staff, departments and independent boards and commissions
- The Client Services Team provides a range of legal services and advice to the City's elected officials, boards and commissions, and all City departments
- The Litigation Team represents the City of Minneapolis in administrative proceedings and in federal and state court
- The Criminal Division prosecutes crimes committed by adults in the City of Minneapolis
- Victim/witness specialist program supports victims and witnesses involved in the cases the Attorney's Office prosecutes
- Diversion programs manage several diversion programs for offenders
- Public safety initiatives develop and implement smart public safety initiatives.

Departments may face claims or litigation for a variety of reasons and happenings, as they conduct their operations. Examples may include occurrences such as car incidents involving City employees and property. The fact a claim or lawsuit is filed does not mean the City is at fault or has any liability in the case, but it does kickstart a process at the City.

When a lawsuit is filed against the City or a City department, the City Attorney's Office serves as the main contact for the lawsuit, communicating and working with departments to receive necessary information. Attorneys are assigned to cases and departments to guide them through the process and make recommendations. Department-level involvement varies depending on the case and circumstances; lawsuits may take years from initial notice to resolution.

Parties pursuing action against the City for smaller dollar amounts, and for incidents such as some vehicle incidents, may go through the City's claim process, housed in Finance and Property Services, instead of a formal lawsuit. Representatives from City departments and the City Attorney's Office serve on a committee that reviews the claims and handles disbursements. Worker's compensation claims are also handled through a separate, established process, and were not a subject of this review.

## Observations and Management's Action Plans

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As a result of this engagement, Audit identified two areas of improvement in the post lawsuits process. Observations including risks, causes, criteria, and recommendations, and management responses, are detailed below.

### Observation #1

*Post lawsuits policy and procedures (HIGH)*

#### Observation

There are opportunities to implement a formal City-wide post lawsuits process to immediately identify and address control gaps and enhance communication with impacted departments. Specifically, Internal Audit (“Audit”) noted that few departments have internally implemented procedures to review and address control gaps. The City Attorney’s Office often helps impacted departments to comply with terms of Court orders when issued; however, there is no City-wide follow-up process to ensure these impacted departments address root causes to prevent recurring lawsuits and claims.

It is best practice to formalize and standardize key processes to strengthen the control environment, improve efficiencies, and mitigate the risk of non-compliance. Documenting processes helps reduce operational ambiguity by providing consistency in operations and making monitoring easier.

The City Attorney’s Office may provide specific impacted departments/divisions information on the strengths and weaknesses of each case, to allow management to close the control gaps that caused a lawsuit or claim. However, this process is not standardized and carried out across the board.

Not implementing a formal City-wide post lawsuits process to ensure that impacted departments/divisions address existing gaps increases the risk of recurring claims, lawsuits, and payouts.

### **Recommendation**

Audit recommends that:

1. The City Attorney’s Office implement a City-wide post lawsuits process to ensure that immediately following a lawsuit or claim, the impacted departments/divisions identify the root cause(s) and action items necessary to avoid similar situations in the future.
2. The City Attorney’s Office maintain ongoing communication with impacted departments until each case is fully resolved.

### **Management Action Plan**

#### Management response:

1. The City Attorney’s Office will create a post-settlement form to be filled out by impacted departments/divisions and reviewed and signed, as evidence of their approval, by the attorneys assigned to the specific case. The City Attorney’s Office will provide instructions or resources to assist department with filling out the form. The impacted departments/divisions will identify and document the root cause(s) of the issue(s) that led to the lawsuit/claim/settlement as well as steps they intend to take to avoid similar occurrences in the future on the form.

A copy of the form will be stored by both the departments/divisions and the City Attorney’s Office.

The City Attorney’s Office will document the process in their procedures.

2. As part of the notification process to departments/divisions and during the initial conversations with departments involved in lawsuits, departments and the attorneys assigned will establish communication expectations and a tentative timeline for status update meetings or communications throughout the duration of the lawsuit.

Target remediation date: March 31, 2022

Responsible party: Tracey Fussy, Attorney Civil Division  
Sara Lathrop, Attorney Civil Division

## Observation #2

*Communication and information flow among City departments (HIGH)*

### Observation

When a lawsuit or a claim occurs, there may be information regarding the causes and contributing factors that are relevant to other City stakeholders; however, there is no formal or standard process to ensure that information is relayed to others across the City. Information is siloed within departments, and others across the City are unaware of the control gaps. Audit noted there was some traffic-related software with information shared among some departments such as Public Works and Regulatory Services, however the practice is limited to car incidents.

There are opportunities to more consistently and formally share lessons learned and potential control gaps across City departments to help management stay informed and take action as necessary to prevent future similar occurrences.

It is best practice to formalize and standardize key processes to strengthen the control environment, improve efficiencies, and mitigate the risk of non-compliance. Documenting processes helps reduce operational ambiguity by providing consistency in operations and making monitoring easier and allows for stakeholders to be informed and take action as necessary to reduce risks.

There are not established communication channels across City departments, involving the City Attorney's Office, that allow for information and knowledge to be shared. The City Attorney's Office and a particular department may have information and knowledge of control gaps, and may share information intermittently or as requested, but attorney-client privilege and the length of time it takes from claim to settlement, including staff turnover, can leave information siloed.

Not sharing information across City departments increases the risk of a repeat or continuation of the activity that led to previous claims or lawsuits, increasing the risk of future claims, litigations, and payouts across the City.

### Recommendation

Internal Audit recommends that the City Attorney's Office implement and facilitate a communication process across City departments related to post-lawsuits information. Relevant parties should be identified and informed, and information related to control gaps, lessons learned, and the conditions that led to a lawsuit or claim should be shared. This process should be built into the regular post-lawsuits process the City Attorney's Office follows at the conclusion of a case, or created and tracked as part of a checklist to ensure that proper follow-up and communication occurs.

## **Management Action Plan**

### Management response:

Management will establish and facilitate a communication process across City departments related to post-lawsuit information. Relevant parties will be identified and informed, and information related to control gaps, lessons learned, and the conditions that led to a lawsuit or claim will be shared among the parties, while respecting the need to not release privileged or confidential information. This will be built into the department's procedures for actions to take after a lawsuit, with the assigned attorneys responsible for leading the follow up.

Target remediation date: December 31, 2021

Responsible party: Tracey Fussy, Attorney Civil Division  
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