

County Council of Cuyahoga County, Ohio

Ordinance No. O2012-0008

Sponsored by: Councilmember Greenspan	An Ordinance amending Ordinance No. O2011-0019, which established the Agency of Inspector General and the responsibilities and duties of said Agency, and declaring the necessity that this Ordinance become immediately effective.
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WHEREAS, the Cuyahoga County Council established the Agency of Inspector General and the responsibilities and duties of said Agency in Ordinance No. O2011-0019; and,

WHEREAS, it is necessary to amend the establishing legislation in order to clarify the duties and powers of the Agency of Inspector General; and,

WHEREAS, it is necessary that this Ordinance become immediately effective in order that critical services provided by Cuyahoga County can continue and to continue the usual and daily operation of the County.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. Section 2 of the establishing legislation of the Agency of Inspector General, adopted in Ordinance No. O2011-0019, effective June 16, 2011, is hereby amended to read as follows (deletions stricken out; additions bolded and italicized):

SECTION 2. The Cuyahoga County Inspector General Agency.

(a) *Establishment.* There is hereby established the Agency of Inspector General to be known as the “Cuyahoga County Inspector General.”

(b) *Direction of Agency.* The Inspector General shall direct the Agency and shall employ assistants and employees as shall be reasonably necessary to assist the Inspector General in carrying out the duties of the Agency in accordance with the budget parameters set forth in this Ordinance. In employing the assistants and other employees, the Inspector General shall comply with the hiring rules, regulations and processes of the Human Resource Department of Cuyahoga County.

(c) *Investigative Powers and Duties.* The Inspector General is hereby appointed to conduct examinations under Section 2.05 of the County Charter and shall, therefore, have all such rights and duties to investigate fraud, corruption, waste, abuse, misfeasance, malfeasance, and nonfeasance without interference or pressure from any other Public Official or Employee. The Inspector General shall also perform all of the following:

(i) The Inspector General shall serve as the County's chief ethics officer and is charged with the responsibility of investigating and enforcing the ethics ordinance in accordance with the terms of said ordinance. In so doing, the Inspector General shall cooperate with the County's Human Resource Commission. The Inspector General shall not interfere with the authority of the Human Resource Commission to ensure "compliance with ethics resolutions or ordinances as passed by the Council" under Section 9.02(3) of the County Charter.

(ii) The Inspector General shall establish a "hotline" and web site to receive complaints from either anonymous or identified persons, and s/he shall investigate all complaints, tips, and any other filings and submittals received by the Agency regardless of the format or forum through which such information or documents are received. Without regard to how such documents are received by the Agency, all documents prepared or received by the Agency, including, without limitation, all complaints, tips, and any other filings and submittals received by it shall be considered part of the Inspector General's ~~confidential~~ investigative files.

(iii) The Inspector General shall have the powers and rights to investigate all county contracts subject to the limitations set forth in Section 2(d)(iii) of this Ordinance.

(iv) ~~When the Inspector General reasonably believes~~***If an investigation reveals reasonable grounds to believe*** that a ~~possible~~ violation of any state, federal, or local law, rule, regulation, or policy has taken place, ~~the Inspector General~~***he*** shall notify the appropriate civil, criminal, or administrative agencies in charge with enforcement of said violation. ~~In the case of a possible~~***If an investigation reveals reasonable grounds to believe that a*** violation of a rule, regulation, or policy governing a County employee ***has taken place***, the Inspector General shall notify the ~~County Executive~~***employee's appointing authority*** and the ***applicable*** Department of Human Resources.

(v) The Inspector General shall cooperate with other governmental agencies to recover such costs from other entities involved in willful misconduct in regard to County funds and return said funds to the County's General Fund.

(vi) The Inspector General shall prepare and publish *on its website* semiannual reports (the first of which will cover the period January 1st – June 30th and will be due in July and the second of which will cover the period July 1st – December 31st and will be due in February) concerning the work and activities of the Agency pertaining to closed investigations, including statistical information regarding the disposition of closed investigations, audits, and other reviews. The reports shall include the total number of complaints received during each reporting period, the number that required active investigation, the number that resulted in prosecution or other disciplinary actions, and the number of investigations closed, along with the cost incurred over and above that of the cost of the salaries of the Agency. ~~The Inspector General shall simultaneously publish the reports on the Agency's website.~~

(d) Limitations on the Inspector General's Investigative Powers and Duties.

(i) *No Interference with Ongoing Investigations.* The Inspector General shall not interfere with any ongoing criminal, administrative, or civil investigation or prosecution in the performance of his/her duties. If necessary, the Inspector General shall suspend all investigative activities to ensure that the Agency's actions do not interfere with any such investigations.

(ii) *Protection of Constitutional and Civil Rights.* The Inspector General shall manage the Agency and conduct all investigations in accordance with law and in a manner that protects the constitutional and civil rights of any person who is the subject of an investigation as well as the constitutional and civil rights of any potential witnesses. The Inspector General shall adopt policies and procedures to ensure that such protections are in place in conducting any investigations or performing any other function.

(iii) *Effect on Contracts.* The enactment of this Ordinance shall not be interpreted to interfere with or change the terms of any contracts with the County in place at the time

of its enactment. All contracts and contract amendments entered into on or after the effective date of this Ordinance, however, shall be subject to the requirements of this Ordinance. In addition to the County's powers to enforce this Ordinance under its home rule powers, this Ordinance, including all obligations by contractors, shall be considered a material term of all contracts or contract amendments entered with the County on or after the effective date of this Ordinance, and all contractors shall comply with its requirements as a material term of their contracts with the County. All Inspector General inspections or investigations of a contractor shall specifically relate to a contract with the County.

(iv) *Relationship with Inspector General.* The Inspector General shall cooperate with the Department of Internal Auditing to avoid duplication of effort and to share information, so long as such sharing does not compromise an ongoing investigation. At the request of the Inspector General and with the approval of the Internal Auditor, the Department of Internal Auditing may provide services to the Inspector General for a specific investigation. The Inspector General shall not interfere with the authority of the Internal Audit Department to conduct audits pursuant to the Charter, any applicable ordinances, and any rules established by the Internal Audit Committee.

(e) Inspector General's Budget.

(i) *Initial Budget.* Through the remainder of the year 2011, the Inspector General's budget shall be \$375,000.00.

(ii) *Subsequent Annual Budget.* With the benefit of having experienced the needs and expenses of the Agency for the year 2011, the Inspector General shall submit a proposed budget for the year 2012 in accordance with the time parameters of Council's regular budgetary practices.

(iii) *Requests for Additional Funding.* Nothing contained herein shall be construed to prohibit the Inspector General from transmitting to the Council supplemental budget requests, which shall be reviewed and considered in the normal budgetary process.

(f) Agency's Facilities, Furniture, Equipment and Software.

The County shall exercise good faith efforts to provide the Agency with appropriately located office space and sufficient physical facilities,

including office furniture, equipment, and software, commensurate with other County departments of similar size and needs.

SECTION 2. It is necessary that this Ordinance become immediately effective in order that critical services being provided by Cuyahoga County can continue without interruption, and to continue the usual daily operation of the County. Provided that this Ordinance receives the affirmative vote of eight members of Council, this Ordinance shall become immediately effective upon the signature of the County Executive.

SECTION 3. It is found and determined that all formal actions of this Council relating to the adoption of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by Mr. Greenspan, seconded by Mr. Schron, the foregoing Ordinance was duly enacted.

Yeas: Schron, Conwell, Jones, Simon, Greenspan, Miller, Brady, Germana, Gallagher and Connally

Nays: None

County Council President

Date

County Executive

Date

Deputy Clerk of Council

Date

First Reading/Referred to Committee: March 13, 2012

Committee(s) Assigned: Rules, Charter Review, Ethics & Council Operations

Second Reading: May 8, 2012

Amended on the Floor: June 26, 2012

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