



# Ethical Practices Board

Annual Report 2009



**R. T. Rybak, Mayor**  
**Barbara Johnson, City Council President**  
**Patricia Kovel-Jarboe, Chair**  
**Susan L. Trammell, Ethics Officer**

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# Introduction

The Ethical Practices Board (“EPB”) was created in 2003 with the passage of the City’s Ethics in Government Ethics Code (“Ethics Code”), codified at M.C.O. Ch. 15. Section 15.210 of the Ethics Code establishes the EPB and outlines the powers and duties of the EPB, which include issuing advisory opinions and investigating complaints from City employees and members of the public that the Ethics Code has been violated. The Ethics Code sets forth some specific standards below which no City official or employee should violate and, as importantly, sets forth aspirations for ethical conduct that go above and beyond the minimum requirements of the Ethics Code.

Further, Ethics Code §15.210(f) states:

The ethical practices board shall prepare and submit an annual report to the mayor and the city council detailing the ethics activities of the board and the city during the prior year. The format of the report must be designed to maximize public and private understanding of the board and city ethics activities. The report may recommend changes to the text or administration of this Code. The city clerk shall take reasonable steps to ensure wide dissemination and availability of the annual report of the ethical practices board and other ethics information reported by the board.

This annual report is respectfully submitted to the Mayor and to the City Council in response to the requirements of the Ethics Code.

## Appointment and Membership

The 2009 chair of the EPB was Patricia Kovel-Jarboe. Ms. Kovel-Jarboe was first appointed to the EPB in September 2005 and has been reappointed to a term ending January 2, 2012. Ms. Kovel-Jarboe is a former professor at the University of Minnesota and was also an administrator at the University of Minnesota. Ms. Kovel-Jarboe is currently a self-employed consultant on organizational effectiveness.

Ms. Susan Humiston was appointed to the EPB in November of 2008. Ms. Humiston is Senior Counsel for Alliant Techsystems, Inc., and is a former shareholder with the law firm of Leonard, Street and Deinard. Ms. Humiston is a member of the Hennepin County District Ethics Committee for which she investigates ethics complaints filed against attorneys for the Office of Lawyers Professional Responsibility as well as a member of the Society of Corporate Compliance and Ethics.

Ms. Abigail Garner was appointed to the EPB in April 2009. In December 2009, Ms. Garner earned her master's degree in organizational leadership from St. Catherine University, as well as a certificate in dispute resolution from Hamline University's School of Law. She is also a graduate of Wellesley College and the Minneapolis Public Schools. A longtime resident of Minneapolis, she was one of the youngest recipients of the Twin Cities International Citizen Award which was given to her in 1992 by the Office of Mayor Fraser.

Ethics Code §15.220 provides that the City Attorney shall designate an assistant city attorney as the City's Ethics Officer. Susan Trammell was designated Ethics Officer in February of 2006.

## **Mission**

The Mission of the Board is to promote integrity in City government by providing the services set forth in Ethics Code §15.210(e). These services include providing interpretations of the Ethics Code, responding to allegations of Ethics Code violations, and providing policy advice to the Ethics Officer.

## **2009 Accomplishments**

The primary activities and accomplishments achieved by the Ethical Practices Board and assigned staff in 2009 included:

### **I. Ethics Education**

#### **Requirements of the Ethics Code**

The Ethics Code requires attendance at an ethics education seminar within six months of becoming a local official or employee and every four years thereafter for local officials and every three years thereafter for employees. The Ethics Code states the education seminars are to be designed and implemented by the Human Resources Department to educate local officials and employees of their duties and responsibilities under the Ethics Code. Department heads are responsible for ensuring that all of their employees attend the required ethics education seminars.

#### **Historical Perspective and Current Statistics**

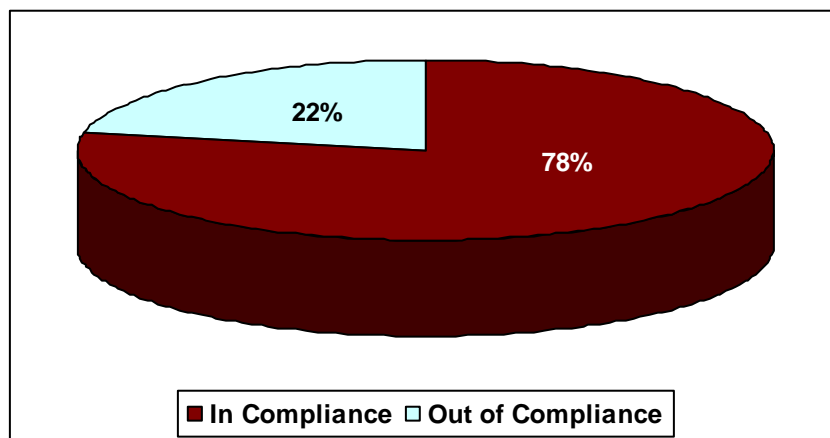
Upon passage of the Ethics Code in March of 2003, a concerted effort was made to provide Ethics Code education to the entire City workforce, the elected officials and the members of the City's boards and commissions. To this end, a videotaped training featuring "Dr. Bill" was produced and the vast majority of covered persons attended ethics education prior to March 31, 2004. The Dr. Bill videotape was replaced with a video featuring ethics officer Burt Osborne in 2005. Beginning in October 2006, Ethics Officer Susan Trammell began conducting "in person" ethics education seminars for city employees, elected officials and the members of the City's boards and commissions. In collaboration with the Human Resources Department Training and Development division, a city-wide employee Ethics Code refresher class is offered each month

in conjunction with required Respect in the Workplace education. Ethics Code education is also provided at each new employee orientation session. In addition, the Ethics Officer often has provided Ethics Code education to individual departments or divisions as well as to the individual City boards and commissions.

In 2009, the Ethics Officer, in collaboration with the Human Resources Training and Development Division (“Training and Development”), scheduled morning and afternoon ethics education refresher classes each month. In addition Training and Development and the Ethics Officer provided individual departments with classes scheduled at their convenience. At the beginning of 2009, the Ethics Officer sent emails to department heads reminding them of the ethics education requirement; the responsibility of the department heads for their employees’ compliance with the ethics education requirement and availability of the ethics education management reports on HRIS for all City managers and supervisors. The email also contained the names of the department’s employees who need ethics education and provided information regarding enrollment via HRIS Learning Management. In mid summer of 2009, follow-up emails were again sent to encourage enrollment.

In 2009, the Ethics Officer, with assistance from Human Resources Training and Development, conducted 46 Ethics Code education sessions reaching 932 employees, approximately 21.6% of the City’s workforce.<sup>1</sup> According to HRIS records as of December 8, 2009, 78% of the City’s regular employees and 16% of the City’s seasonal and temporary employees have attended the required Ethics Code education.

### **Regular Employees and Ethics Education as of December 8, 2009**



The percentage of total employees in compliance with ethics education requirements increased from 2008 when 68% of the workforce was in compliance. Absent the 2009 ordinance amendment requiring refresher ethics education every three years for employees instead of every four years, the compliance rates would be even greater. Because of the ordinance change a large number of regular employees have fallen out of compliance. Department Heads are aware of this

<sup>1</sup> Numbers for the City workforce are based upon regular, seasonal and temporary employment classifications but exclude the 1,225 election judges who are considered temporary intermittent employees.

issue and have been very responsive to the ethics education emails sent out in late December of 2009 regarding the need for scheduling ethics refresher course for their employees.

Throughout 2009, the Ethics Officer has been collaborating with the Communications Department to use Minneapolis Matters as a vehicle for an on-going ethics awareness campaign. The goal is to present an ethics topic to employees on a bi-monthly basis:

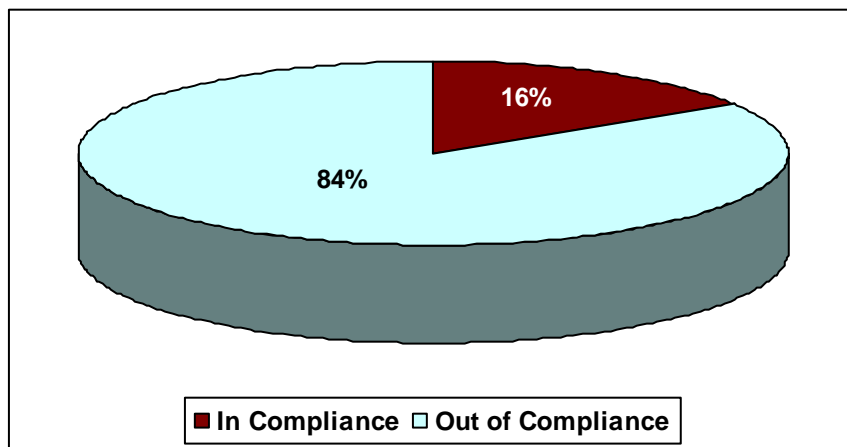
PUBLICATION DATE	TOPIC
April 29	Employee ethics education requirement changed
June 24	Ethics report line marks first anniversary
September 2	Thinking of working on a local campaign?
September 30	Absentee voting means no political signs or apparel
November 12	Revised policies on gift giving and soliciting charitable donations adopted
December 10	Don't forget that a new policy governs gift giving

Minneapolis Matters articles keep relevant ethics issues before employees and serve to prevent violations of the Ethics Code and related policies.

## Closing the Ethics Education Gap

Reaching the temporary and seasonal employees (collectively “seasonal”) has proven to be difficult. Only slightly more than 16% of the City’s temporary employees are in compliance with the required ethics education attendance.

### Seasonal/Temporary Employees and Ethics Education as of December 31, 2009



The Ethics Officer has been collaborating with the Training and Development to create a Train the Trainer program for both Respect in the Workplace and Ethics Education classes. Training

and Development has created a system that will preserve the quality and integrity of the training currently presented. Maintaining ethics education trainers in departments with large numbers of seasonal employees will allow these seasonal employees to more easily participate without significant additional payroll costs to the departments.

## Employee Responses to Ethics Education

Approximately 31% of the ethics education attendees completed survey questions about the training received. 82.6% of the respondents strongly agreed or agreed that they were engaged in the session and 84% of the respondents rated the Ethics Officer as an excellent or very good instructor. The Respondents reported that at the end of the session they understood well or very well:

	Very Well	Well	Total
Who to contact for an Ethics Code Question	69.4%	23.5%	92.9%
The purpose of the Ethics Code	66.4%	24.7%	91.1%

These responses favorably compare to the responses attendees provided for other City offered trainings.

Attendees are also asked to provide additional comments. Some of the comments offered after joint Ethics and Respect in the Workplace Education sessions are as follows:

“Thought the class would be boring but was wrong. Involvement made it engaging and interesting.”

“These training sessions should be done every year. Really!”

“Please send the managers every year for a refresher.”

“The information presented through the instructors (rather than by a video as in the past) was interesting, and it made me feel as if the City takes these issues seriously and wants employees to have an understanding of them. I feel the speakers were much more effective than a video.”

“Great job clarifying misunderstanding/misinterpretations from the audience, and great job explaining fairly technical material (especially ethics).”

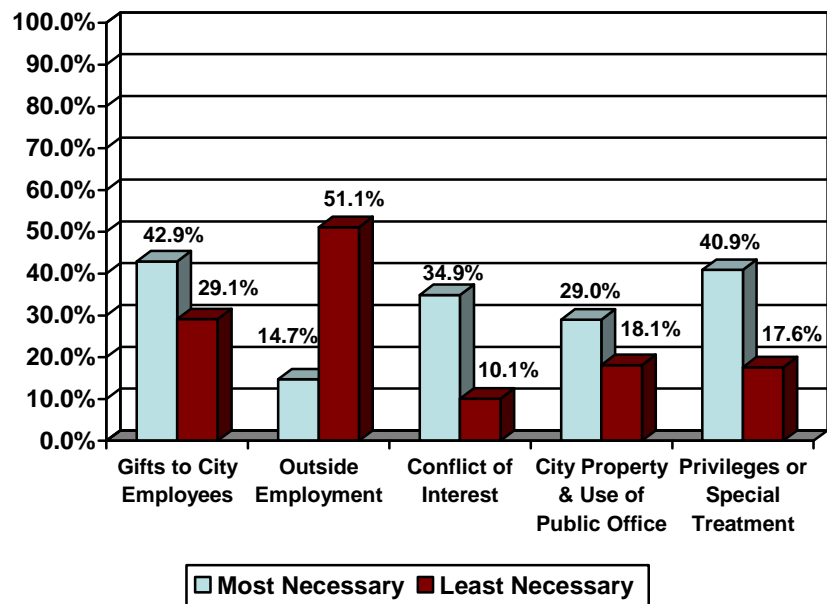
“The Ethics part could have been death, but the trainer kept it moving, kept our attention and still relayed pertinent information to the workshop participants.”

“I found the session and instructors interesting and was astonished. A welcome change.”

The survey responses and comments affirm the value of “in person” ethics education. The Ethics Officer believes that the ethics education classes help create a connection between employees and the Ethics Officer leading to a willingness on the part of employees to call the Ethics Officer with ethics questions. The Board views this as an affirmative change in the ethical culture of the City.

The 2009 ethics education surveys included two new questions. Participants were asked: “Which of the ethics rule(s) [Gifts to city employees, Outside employment, Conflict of interest, City property and use of public office, Privileges or special treatment] do you think are most necessary based upon what you see at work?” and “Which of the ethics rule(s) [Gifts to city employees, Outside employment, Conflict of interest, City property and use of public office, Privileges or special treatment] do you think are most necessary based upon what you see at work?” The answers and comments to these two questions show that many employees believe that the outside employment rule is the least necessary rule whereas the remaining rules are more necessary.

### Ethics Rules in the Workplace



In the follow up “Why?” questions, employees explained:

“They are all necessary. \* \* \* The City’s role is to educate and enforce these standards. Just because I don’t see much of the abuse associated with the first four items doesn’t mean they are not necessary.”

“All of these issues have such explosive potential that they are all important.”



“I don’t think anyone really abuses this policy. However, this is probably due to awareness of the policy.”

“They are all important.”

“These situations and questions about them come up occasionally in my office, so it’s important to have the rules to refer to in order to prevent legal implications.”

The ethics education survey serves as a valuable extension of the Ethics Report Line. The feedback provided by attendees of ethics education provides important information on the relevance and efficacy of in-person ethics education as well as the need for ethics rules in the workplace.

## **Board and Commission Ethics Code Education**

The Ethics Code requires the citizen volunteers serving on our more than 45 boards, commissions and advisory committees (collectively “boards”) to attend ethics education upon beginning their service and every four years thereafter. When the Ethics Code was adopted nearly all members of the City’s boards attended ethics education. Since the beginning of 2004, however, membership on the City’s boards has experienced substantial turnover but ethics education was not held when new members began serving their terms. In 2008, the Ethics Officer began presenting ethics education sessions focusing mainly upon conflicts of interest.

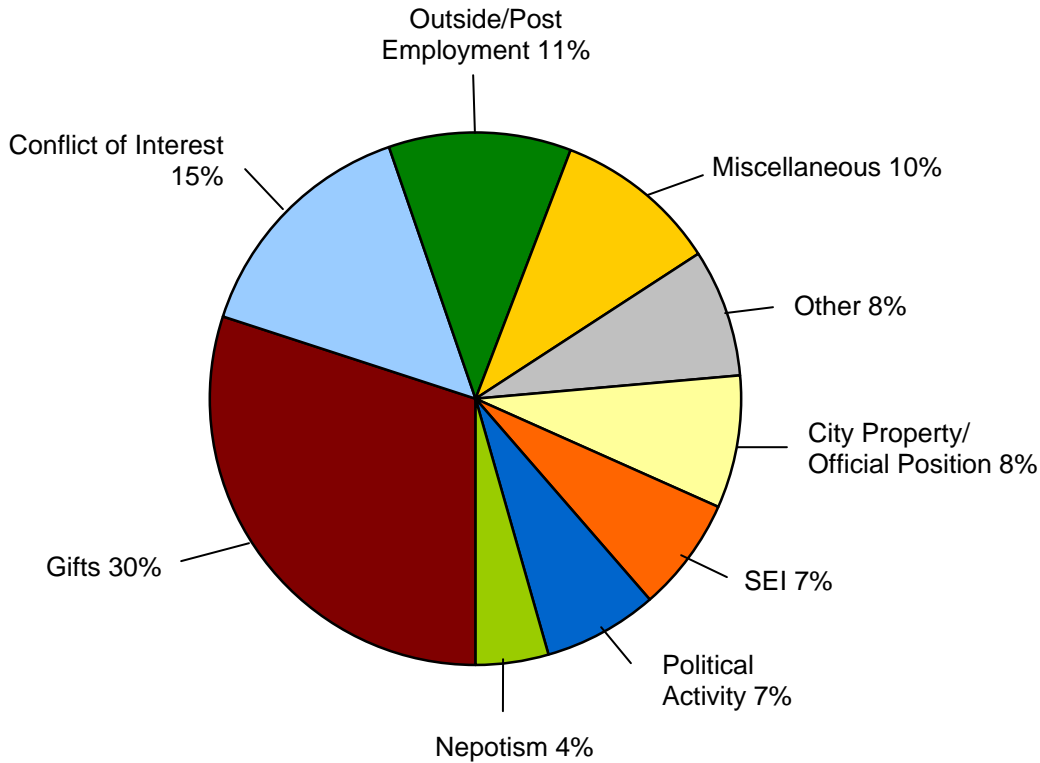
Providing in person ethics education to these boards proved to be challenging because the boards often meet in the evening and their agendas are tightly packed. In 2009, the Ethics Officer worked with a donor to create an interactive computerized ethics education course for these boards. The City Council accepted this gift by resolution dated June 12, 2009. The computerized training is web-based and permits the board members to participate in the training at their own convenience. The City Clerk’s office is automatically notified of the board member’s completion of the training when the member reaches the end of the training materials and supplies his/her name and board membership. The electronic training is proving to be an efficient and effective method of reaching board members as 12% of those board members requiring ethics education took the course within the first month of the training’s release.

## **II. Ethics Inquiries**

From January 1, 2009 through December 31, 2009, the Ethics Officer answered 157 telephone and email inquiries.<sup>2</sup> The number of inquiries has been fairly consistent since tracking began in 2006. The topics of ethics inquiries were as follows:

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<sup>2</sup> Inquiries raised during education sessions and in-person immediately after ethics education sessions are not included in the numbers.



The top two categories of inquiries did not change from last year: Gifts and Conflict of Interest. Although the percentage dropped significantly, the calls related to gifts remained the most frequent category of inquiry for the fourth consecutive year. A substantial portion of the employee ethics education sessions are devoted to gifts and it is encouraging that employees will call the Ethics Officer when faced with uncertain situations. Questions related to gifts are highly fact dependent and not easily answered by FAQ or other informational brochures.

The number of conflicts of interest questions decreased 3% and the number of questions related to statements of economic interest decreased 7%. The inquiries related to the remaining categories have remained fairly constant since 2007. The number of miscellaneous inquiries has also remained fairly constant since 2007. Miscellaneous inquiries are non-substantive inquiries ranging from complaint process and jurisdiction to copies of the Ethics Code to service on the Ethical Practices Board. The Other category combines contract, disclosure of data, discrimination, harassment, related policies and lobbyist inquiries; all of which produced just a few inquiries throughout the year.

Very few cities similar in population size of Minneapolis track ethics inquiries. Twelve cities ranging from St. Louis, MO, approximate population 354,000 to Omaha, NE, approximate population 438,000 were contacted about their ethics board and inquiry tracking. Most of the cities have no independent ethics board and only Honolulu tracks ethics inquiries. The following chart contains ethics inquiry information from other cities and the City of Minneapolis:

	Number Persons Covered	2009 Inquiries	Top Three Substantive Inquiries
<b>Chicago*</b>	35,776	5,350	Financial Interest Disclosure, Lobbying, Gifts/Travel/Honoraria
<b>Atlanta*</b>	7,000 - 8,000	276	Use of City property, Conflict of Interest, Gratuity & Travel (3-way tie) Outside Employment
<b>Honolulu*</b>	9,500	395	Benefit/disadvantage of another Political activity Gifts
<b>Minneapolis</b>	4,475	157	Gifts Conflict of Interest Outside/Post Employment

\* Chicago's fiscal year ended June 30, 2009. Data from Atlanta and Honolulu is from fiscal year 2008.

### III. Ethics Complaints and Ethics Report Line

#### Ethics Complaints

The Ethics Officer received forty-six total complaints alleging violations of the Ethic Code during 2009. This is a substantial increase over the twenty-eight complaints received in 2008. The complaints were reported in four ways:

Reporting Method	2009	2010
Ethics Officer	9	14
Ethics Report Line - Internet	6	11
Ethics Report Line - Telephone	10	13
Required reporting by department	2	8
311 – Citizen reporting	1	0

Although the use of the internet option of the Ethics Report Line nearly doubled from 2008, the use of the Ethics Report Line methods as a percentage of complaints remained the same as 2008 (57%).

Ethics Code §15.230(c) requires a supervisor or department head to notify the Ethics Officer of a report of an alleged Ethics Code violation and the subsequent outcome. The Ethics Officer received eight such reports in 2009. Given the breadth of the Ethics Code and the inclusion of the City's Respect in the Workplace policy in the Ethics Code through §15.150, Discrimination

or Harassment, it is fair to say that the complaint statistics reported above do not cover all of the ethics related issues handled by City Departments throughout 2009.<sup>3</sup>

The subject matter of the seventy-five allegations<sup>4</sup> covered the entire Ethics Code as well as other management concerns:

<b>Subject Matter, Ethics Code Section</b>	<b>2008</b>	<b>2009</b>
Conflict of Interest, 15.40	0	3
Gifts, 15.50	2	7
Outside Employment, 15.60	0	5
Use of Official Position, 15.70	1	9
Statements of Economic Interest, 15.80	0	0
Post-employment, 15.90	0	3
Use of City property or time, 15.100	7	22
Political Activity, 15.110	0	1
Loans, 15.120	0	0
Required Reporting of Fraud, 15.140	0	0
Respect in the Workplace Policy, 15.150	2	3
Nepotism, 15.160	1	
Use/Disclosure of Information, 15.170	4	1
Bias or Favoritism, 15.190	0	4
Inappropriate Influence, 15.200	1	0
Employee Relations	8	11
Other	5	6

This year saw a substantial increase in the number of complaints related to the use of city property or time. One interpretation is that employees are less willing to ignore what they believe to be improper use of city time, resources and property, while the employees are doing more work with less resources and are worried about their positions given the budget situation in Minnesota and Minneapolis...

The outcomes of the 2009 allegations are as follows:

- Pending – 8
- Discipline imposed – 4
- Dismissed – 34
- Coaching – 7
- Department changes made – 3
- Policy reviewed with staff - 7
- Dismissed, no jurisdiction – 10
- Other - 2

<sup>3</sup> Respect in the Workplace unit reported 18 allegations in 2009, including Ethics Report Line allegations.

<sup>4</sup> Some complaints contained more than one allegation so these numbers will not equal the number of complaints received.

In addition eight complaints (eleven allegations) carried over from 2008 and the outcomes of the carry-over allegations are as follows:

- Dismissed – 6
- Policy reviewed with staff - 3
- Coaching – 3

## Ethics Report Line

The Ethics Report Line has been operational since June 1, 2008. In the seven remaining months of 2008, the City received sixteen original incident reports of which ten were anonymous reports. In 2009, the City received twenty-four original incident report of which twenty were anonymous. Even though the number of reports is greater this year, one must take into account that the Ethics Report Line was operational the entire year whereas 2007 was a partial year. On average the number of Ethics Report Line complaints has dropped from 2.3 per month to 2 per month and the percentage of anonymous calls has increased. The twenty-four reports received in 2009 contained forty-two allegations.

When reports are made through the Ethics Report Line the report is forwarded to the City’s Ethics Officer, Susan L. Trammell, the City’s Respect in the Workplace Lead Investigator, Steven G. Kennedy, and/or the City’s Internal Auditor. Since the November 2009 retirement of the City’s Internal Auditor, Robert H. Bjorklund, all reports are being sent to both the Ethics Officer and the Respect in the Workplace Lead Investigator. This process is to ensure no complaint is overlooked. Once received, the reports are forwarded as required by the Ethics Code to the appropriate official for investigation, usually the Ethics Liaison for the applicable department. The Ethics Officer contacts the departmental liaison periodically to check on status of the report.

The Network tracks statistics related to the reports made through its clients’ compliance lines:

<b>Original Incident Reports</b>	<b>2008 % City</b>	<b>2009 % City</b>	<b>2009 % The Network Compliance Line</b>
Anonymous Reports	62.5%	83.3%	48.2%
Non-Anonymous Reports	37.5%	16.7%	52.8%
Escalated Incident Reports	0%	4.2%	1.5%
Previously Reported to Management	31.3%	29.2%	31.3%
Caller Callbacks	21.9%	4.4%	9.4%

For both 2008 and 2009, the City’s anonymous reporting was significantly higher than that of the Network’s other clients. Anonymous callers are instructed to re-contact the Network after a

designated period of time to answer any questions the assigned investigator may have for the caller. This year a large percentage of the City's anonymous callers failed to follow up as instructed as compared to The Network's other clients and to last year's anonymous callers. The importance of calling back is stressed when the Ethics Report Line process is discussed during Ethics Education classes.

The Network also tracks the allegations raised in a report made through the Ethics Report Line:

<b>Subject of Complaint</b>	<b>2008 Number City Allegations</b>	<b>2008 % City Allegations</b>	<b>2009 Number City Allegations</b>	<b>2009 % City Allegations</b>	<b>2009 % The Network Compliance Line</b>
Use of Property/Time	5	23.8%	12	28.6%	4.7%
Nepotism	1	4.8%	0	0.0%	N/A
Safety Issues	1	4.8%	0	0.0%	2.5%
Use/Disclosure of Information	1	4.8%	0	0.0%	0.2%
Outside Employment	1	4.8%	3	7.1%	2.8%
Post Employment	0	0.0%	3	7.1%	2.8%
Harassment/Discrimination (Respect in the Workplace Policy)	2	9.5%	3	7.1%	10.3%
Bias/Favoritism	0	0.0%	4	9.5%	N/A
Use of Position	0	0.0%	5	11.9%	N/A
Employee Relations	5	23.8%	8	19%	60.7%
Gifts	2	9.5%	3	7.1%	0.0%
Conflict of Interest	0	0.0%	1	2.4%	2.8%
Other	3	14.3%	0	0.0%	5.6%

The Network categorizes the nepotism, bias/favoritism and use of position issues in a combined category of policy issues. The percentage of other Network clients' 2009 reports related to policy issues was 12.2%.

#### **IV. Code Interpretation through Policy Development**

The Ethics Code was amended in 2007, in part, to include a solicitation on behalf of the City exception to the gift ban. After the solicitation exception was added to the Ethics Code, the City Council requested the Ethics Officer prepare a Solicitation Policy. The Board provided comments on a proposed policy prior to its submission to the City's Policy Review Group in October, 2008. In 2009, this policy was adopted by the City Council. This policy sets forth the protocol a department, board or commission, local official, or employees should use when seeking donations for City use.

In 2009, the City Council also adopted a Gifts between Employees Policy. The Board had previously discussed the employee – supervisor relationship and the potential for an interested person situation due to the authority of the supervisor and department head to make decisions impacting the employee’s financial interest. The Board provided comments on a proposed policy prior to its submission to the City’s Policy Review Group in October, 2008.

The Ethics Officer collaborated with the City’s Human Resources Department to establish protocol to include ethics compliance as an issue in all employee exit interviews. The following ethics question is now included in all on-line and paper versions of the employee exit interview:

**Policy Compliance** - Management adherence to the Ethics in Government Code.

1 - Very Dissatisfied 2 - Somewhat Dissatisfied 3 - Somewhat Satisfied 4 - Very Satisfied

Check if this is a factor in your departure

The Board submitted recommendations related to the inclusion of include both objective data metrics (as for example, the better efforts under “Results Minneapolis”) on behavior and more general discussion of ethical practices in the annual performance reviews of Department Heads to the Mayor and City Coordinator. The rationale for this recommendation is research on organizational performance and individual behavior which suggests that ethical cultures are shaped from the top down.

## 2009 Expenses

COGEL Membership	\$445.00
SCCE Membership	\$295.00
Ethics Report Line	\$4,250.00
Attorney III at 47% time (\$146,706.20 FTE per year)	<u>\$68,951.91</u>
	<b>\$73,941.91</b>

The reported 2009 expenses do not take into account the incidental expenses such as an office, computer, telephone, office supplies, copying, postage, parking, mileage for training and other expenses covered by the Office of the Minneapolis City Attorney.

## 2009 Revenue

During 2009 the Ethical Practices Board did not receive any income from grants, awards or donations. The City did receive a computerized ethics education program valued in the range of \$1,500 -\$2,000.

## **2009 Volunteer Hours**

The three members of the Board collectively spent approximately 79 hours on work related to the Board during the 2009 calendar year. This number consistent with the hours reported for 2008. On average, each member spent two plus hours per month on Board related activities.

## **2010 Ethical Practices Board Work Plan**

The 2010 work plan is predicated on the availability of city staff to complete the tasks requiring staff involvement.

### **Ethics Education**

- Conduct ethics education refresher seminars for city employees.
- Conduct new employee ethics education seminars.
- Collaborate with the City's Human Resources Training and Development Division to implement the Train-the-Trainer Program to provide ethics education to temporary, intermittent, part-time and seasonal employees.
- Work with Departments to determine ethic education needs of contract employees.
- Conduct ethics education seminars for other departments as requested.

### **Code Interpretation through Policy Recommendations**

- Collaborate with the City Coordinator and Communications to present a proposed Endorsements and Advertising Policy for City Council consideration.
- Collaborate with various departments to establish protocol for potential conflict of interest situations.

### **Ethics Inquiries**

- Answer ethics Code inquiries from employees, local officials and the public.
- Collaborate with the City's Communication Department to create a question and answer brochure for frequently asked questions.

### **Ethics Complaints and the Ethics Report Line**

- Manage complaints received directly and from the ethics report line
- Follow up on the alleged ethics allegations brought to light by the 2009 Employee Survey.
- Continue collaboration with the City's Communication Department to create a communication strategy to promote awareness of the Ethics Report Line.
- Provide semi-annual report to Ways & Means/Budget Committee in July.

### **Promote an Ethical Culture in the City of Minneapolis**

- Collaborate with the City's Human Resources Department to establish ethics as a topic of annual performance reviews.