



Your Turn  
Todd Zinser  
Guest columnist

## A fishing expedition is wrong path with chief

There is a famous saying attributed to a Stalin-era Soviet official, "Show me the man and I'll find you the crime." The correct attribution of the saying is a matter of debate, but there is agreement that it properly reflects Soviet-style justice.

The contract between Cincinnati's city manager and Frost Brown Todd LLP to investigate Police Chief Teresa Theetge brings that saying to mind. The law firm agreed to investigate four areas, three of which should have been covered in the chief's most recent performance evaluation, along with any input provided by her. But one area calls for the law firm to investigate whether the chief "has committed any infraction or policy violation while serving as Police Chief." That is a conduct matter.

Normally, in the United States, investigations of an individual's conduct are based on specific allegations. I cannot imagine, for example, the Secretary of Commerce asking the Inspector General to go investigate whether the Director of the Census Bureau has committed "any infraction or policy violation." Figuratively speaking, the city manager is "showing" Theetge to the law firm and now expects the law firm to find "the crime."

On top of that, the services to be provided by the law firm will not be

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independent nor an actual investigation. The contract clearly provides that the city solicitor is in charge. The contract states that the law firm "shall perform and carry out legal services relating to the investigation matter as requested by the city solicitor, or her designees, in a manner satisfactory to the city solicitor ..."

That probably explains why the contract is completely devoid of any independent authorities granted to the law firm. The contract describes a process which includes an upfront discussion between the city solicitor and the law firm where "initial documents and data produced by the city" will be reviewed and "potential witnesses" and "helpful" documents will be identified." Then, the contract requires that the law firm "shall coordinate and agree upon an investigation plan, with check-ins as appropriate."

The city should properly manage public expectations by explaining that the contract is simply augmenting the city solicitor's staff because her office has so many vacancies.

There is a somewhat ominous provision to further cement the city's micro-management of the law firm. Under the contract, the law firm "shall conduct all interviews in person, in a private, mutually agreeable location unless otherwise approved by the city solicitor or her designees." These are all requirements designed to control the law firm. You can also expect the law firm to be assigned workspaces inside the Office of the Solicitor to keep track of the lawyers' movements more easily. A true inde-



Sheryl Long, assistant city manager at the time, poses with Interim Police Chief Teresa Theetge after Mayor Aftab Pureval's announcement of his recommendation for Long to fill the role of city manager at City Hall in downtown Cincinnati on Aug. 26, 2022. SAM GREENE/THE ENQUIRER

pendent investigation would reject all of those conditions.

Despite the sensitivity of this matter, it is also noteworthy that there is no provision for the law firm to have witnesses placed under oath and recorded, either by a stenographer or recording device. Nor is there a requirement for the law firm to produce a written report, unless requested by the city. The contract only requires that the city solicitor be "timely advised of material findings." That could be done in a briefing.

Needless to say, this is a big mess. The city may be better served if, instead

of a Stalin-style fishing expedition, perhaps the law firm could be asked to develop possible solutions. For example, reinstate the chief and undertake 6 months of true performance evaluation, including the services of a mediator if necessary. If there are true performance issues, they will manifest themselves during that period, and the city will be on a much better footing to make fair decisions about the leadership of the police department.

As is, this non-contemporaneous performance review and improper fishing expedition is not the way to go. It is

only going to get worse for the city. The "Law of Holes" clearly applies here: "If you find yourself in a hole, stop digging."

Todd J. Zinser is a Cincinnati native and resides in West Price Hill. He retired as the Inspector General of the U.S. Department of Commerce after 31 years of conducting audits and investigations of federal officials, programs, and operations. He remains a certified fraud examiner. He is a member of the Charter Committee of Cincinnati and hosts a podcast on YouTube, "Citizen Watchdog with Todd Zinser," which can be viewed on [www.cincinnatiwatchdog.com](http://www.cincinnatiwatchdog.com).