



# Whistleblower Program

## Office of the Controller - City Services Auditor



**Whistleblower Program Quarterly Report:**  
**July 1 Through September 30, 2014**

**December 15, 2014**

### Background

The Charter of the City and County of San Francisco charges the Office of the Controller (Controller) to administer a whistleblower and citizen complaint hotline telephone number and Web site and to publicize them through public advertising and communications to city employees. It also requires the Controller to investigate and attempt to resolve the complaints when appropriate. The Controller receives and tracks complaints on the quality and delivery of government services, wasteful and inefficient city government practices, misuse of government funds, and improper activities by city government officials, employees, and contractors.

### The Whistleblower Program Wants Your Input

The Office of the Controller's Whistleblower Program is committed to providing quality services to City officers, employees, contractors, and members of the public in accordance with the San Francisco Charter, Appendix F, and San Francisco Campaign and Governmental Conduct Code, Article IV.

On October 1, 2014, the Whistleblower Program launched a survey to get a better understanding of complainant satisfaction and engagement. Complainants can provide candid input on a variety of Whistleblower Program operations, including their perception of:

- The professionalism of Whistleblower Program staff.
- Protection from retaliation.
- Protection of complainant confidentiality.
- Timeliness of complaint investigation.

The survey is available to all complainants who file a complaint after October 1, 2014. Complainants can access the survey by going to the Whistleblower Program's [Status Check](#) page and entering the complaint tracking number. If the status of the complaint is "Closed," complainants will be provided with a link to complete the survey.

The Whistleblower Program will use the survey responses to improve hotline services, resolve problems that dissuade potential complainants from submitting complaints, and address issues that compromise complainant satisfaction. The Whistleblower Program will share survey results in future quarterly and annual reports.

The Whistleblower Program will also accept feedback and comments by e-mail at [whistleblower@sfgov.org](mailto:whistleblower@sfgov.org). Your feedback is important in helping the Whistleblower Program continually improve hotline services.

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*Copies of the report may be obtained at:*

*Office of the Controller • City Hall, Room 316 • 1 Dr. Carlton B. Goodlett Place • San Francisco, CA 94102 • 415.554.7500  
or on the Internet at <http://www.sfcontroller.org>*

## Complaints Received

During July through September 2014 (Quarter 1), 80 complaints were filed with the Whistleblower Program, which had 64 open complaints as of July 1, 2014. The Whistleblower Program closed 88 complaints in the quarter, leaving 56 complaints open on October 1, 2014.

## Sources of Complaints Received

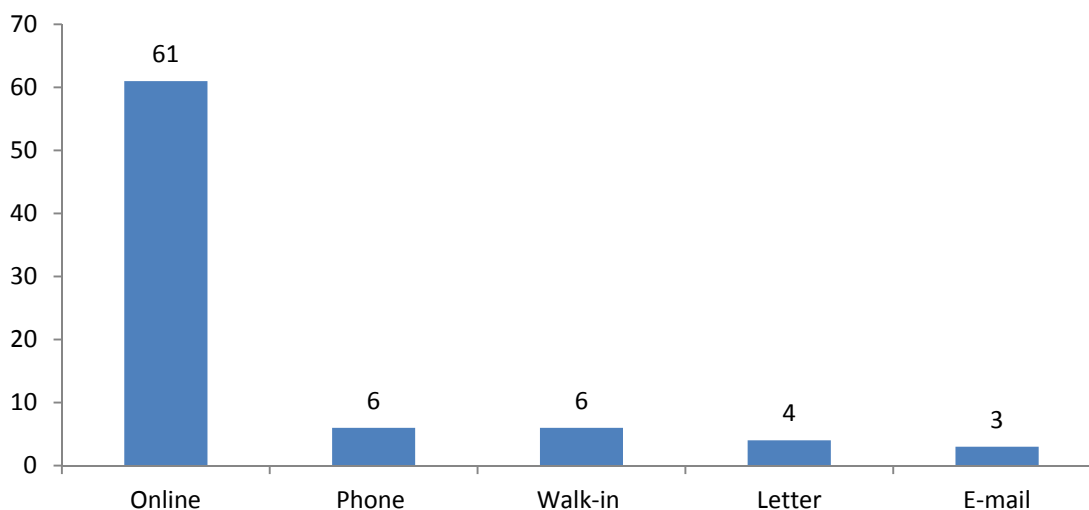
As shown in Exhibit 1, 61 (76 percent) of the complaints received in Quarter 1 were submitted through the Whistleblower Program Web site. This includes complaints reported through the City's 311 Customer Service Center. All other complaints were submitted through:

- Direct calls to the Controller's offices (6 complaints)
- Walk-in visits to the Controller's offices (6 complaints)
- Letters sent to the Controller in care of the Whistleblower Program (4 complaints)
- E-mail to whistleblower@sfgov.org (3 complaints)

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**EXHIBIT 1** Sources of the 80 Complaints Received in Quarter 1

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Source: Whistleblower Program

Of the 80 complaints received by the Whistleblower Program in Quarter 1, 45 (56 percent) were filed anonymously. The remaining 35 complaints (44 percent) were from:

- Persons who are not city employees (23 complaints).
- Active or former city employees (11 complaints).
- City contractors or vendors (1 complaint).

## **The Investigation Process**

Whistleblower Program staff carefully reviews each complaint received. If the complainant provided contact information, an investigator may follow-up with the complainant to review the allegations and ask additional questions. Each complaint received is assigned a unique tracking number. Complainants that provide contact information are provided with the complaint tracking number and can use this number to monitor, in general terms, the status of the investigation. The Whistleblower Program keeps the identity of complainants confidential unless required by law to disclose this information or unless it receives the written consent of the complainant.

Whistleblower Program personnel lead certain investigations, but coordinate the majority of investigations with management of the department associated with the complaint. Allegations that, even if true, appear immaterial or insignificant from a monetary or operational standpoint, may be referred to the city department involved in the allegation for investigation and response. In these circumstances, department management leads the investigation, and, where appropriate, the Whistleblower Program helps guide the investigation. This coordinated approach uses the expertise of all involved departments and leverages resources to ensure that allegations are resolved in a timely manner.

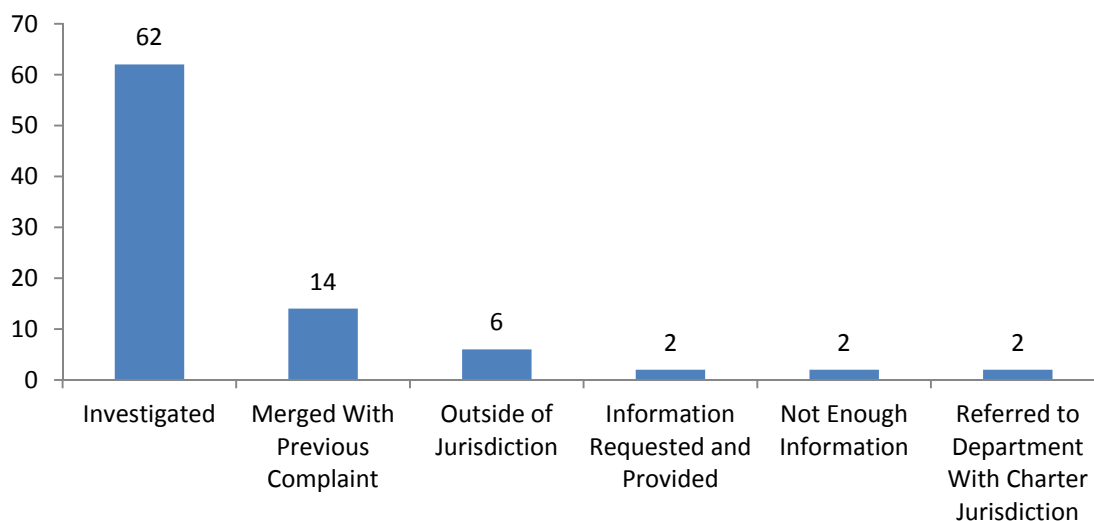
Management of the department associated with the complaint must report to the Whistleblower Program on any action(s) taken in response to the complaint. Program staff then reviews the departmental actions and investigative findings and determines the adequacy of the information provided and whether additional action is required before closing the complaint.

By law, Whistleblower Program investigations are confidential. The Whistleblower Program does not report back to complainants on the specific action taken in response to a complaint, including any corrective or preventive action taken by department management. Further, we cannot provide complainants with any details concerning the information collected during an investigation.

## Complaints Closed

During Quarter 1, 88 complaints were closed. Exhibit 2 displays the actions taken on complaints closed in Quarter 1.

**EXHIBIT 2**      **Actions Taken on the 88 Complaints Closed in Quarter 1**



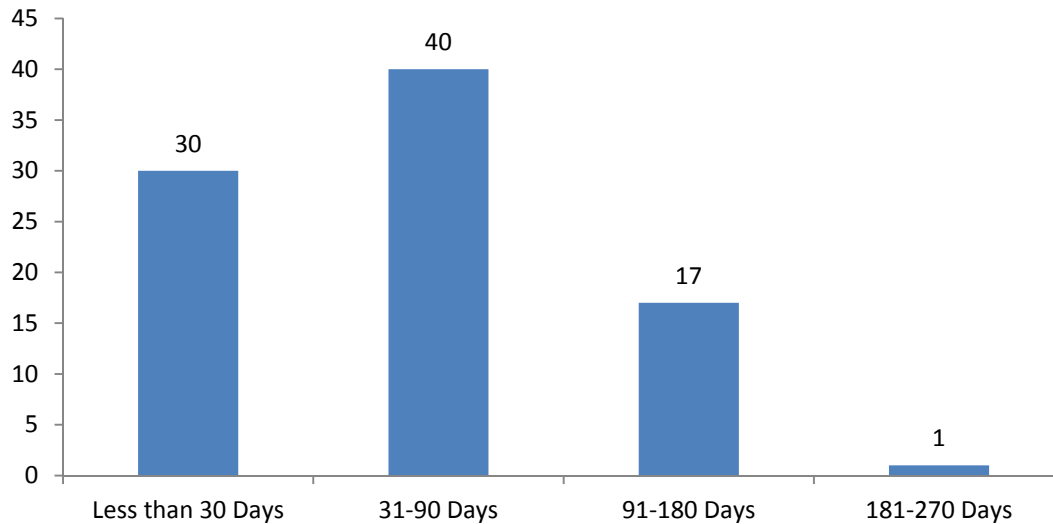
Source: Whistleblower Program

- Of the 88 complaints closed in the quarter, 62 (70 percent) were investigated or referred for investigation. Investigation includes research and other preliminary information developed in determining whether a full investigation is warranted or possible. The action taken on a complaint may change during an investigation.
- The remaining 26 complaints (30 percent) were categorized as follows:
  - Merged With Previous Complaint (14 complaints) – Complainant provided information for a complaint that is already under investigation or was previously investigated by the Whistleblower Program.
  - Outside of Jurisdiction (6 complaints) – Issue falls within the jurisdiction of federal, state, or other noncity government agency or is a suggestion or general complaint about decisions that are within management's discretion.
  - Information Requested and Provided (2 complaint) – Requests for information on city departments or services.
  - Not Enough Information (2 complaints) – Insufficient information to investigate. For example, no indication of department, employee(s) involved, or vehicle number.

- Referred to Department With Charter Jurisdiction (2 complaints) – Complaint was referred to the city department with charter-granted jurisdiction over the issue (for example, the Ethics Commission, City Attorney, or District Attorney).

The Whistleblower Program closed 88 complaints in Quarter 1, the vast majority (80 percent) of which were closed within 90 days, as shown in Exhibit 3.

**EXHIBIT 3**    **Age of 88 Complaints Closed in Quarter 1**



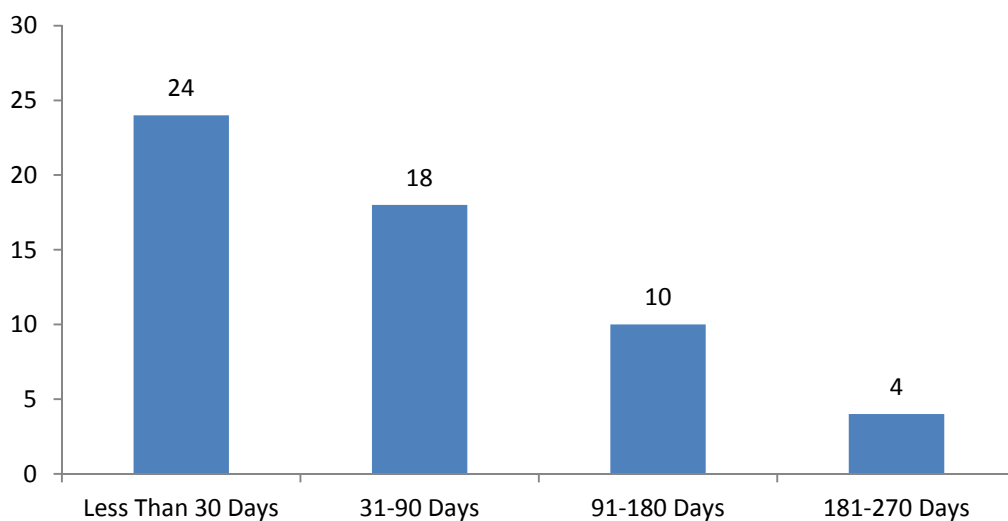
Source: Whistleblower Program

## Complaints Open at the End of Quarter 1

At the end of the quarter, 56 complaints remained open. As shown in Exhibit 4, 42 (75 percent) of these complaints were 90 days old or less. Investigation completion times can vary greatly, depending on the complexity of the issues involved. Steps that influence the length of investigations include:

- Researching issues identified in the complaint.
- Gathering documentation from multiple sources.
- Interviewing witnesses.
- Coordinating resources between departments.

**EXHIBIT 4** Age of 56 Complaints Open at the End of Quarter 1



Source: Whistleblower Program

### Closed Complaints That Resulted in a Corrective or Preventive Action Taken

The Whistleblower Program closed 13 complaints that were sustained, in whole or in part, or resulted in a corrective or preventive action taken during Quarter 1. Exhibit 5 lists the complaints by category. Some complaints may contain more than one type of allegation. Complaints in Exhibit 5 are categorized by their primary allegation.

<b>EXHIBIT 5      Complaint Allegations Sustained in Whole or in Part or That Resulted in a Corrective or Preventive Action Taken in Quarter 1</b>	
Complaint Category	Number of Sustained Complaints
Improper Activities by City Employees	6
Misuse of City Funds	3
Quality and Delivery of Government Services	2
Wasteful and Inefficient Government Practices	1
Other	1
<b>Total</b>	<b>13</b>

Source: Whistleblower Program

Exhibit 6 summarizes the corrective and preventive actions taken on complaints closed in Quarter 1. Some complaints may involve multiple suspects or contain multiple allegations. Consequently, it is possible for a complaint to have multiple dispositions.

<b>EXHIBIT 6      Corrective and Preventive Actions Taken on Complaints Closed in Quarter 1</b>	
Action Taken	Number of Actions Taken
Employee(s) Counseled (Verbal/Written Warning)	4
Procedures Changed/Reinforced	7
Other*	4
<b>Total</b>	<b>15</b>

\* Other includes: Corrected action plan developed, supplemental exam re-evaluated, reimbursements disallowed, outside employment approval form completed

Source: Whistleblower Program

## Retaliation Complaints

The Ethics Commission has the authority to investigate complaints that allege violations of certain state and local laws that relate to campaign finance, conflicts of interest, lobbying, campaign consultants, and governmental ethics.

The San Francisco Campaign & Governmental Conduct Code, Article IV, requires the Ethics Commission to investigate complaints filed by city officers or employees or former city officers or employees alleging retaliation as defined in Section 4.115(a). Section 4.115(a) defines retaliation as the “termination, demotion, suspension, or other similar adverse employment action” taken against any city officer or employee for having in good faith participated in any of the following protected activities:

- Filing a complaint with the Ethics Commission, Controller, District Attorney, or City Attorney, or filing a written complaint with the complainant's department, alleging that a city officer or employee engaged in improper governmental activity.
- Filing a complaint with the Controller's Whistleblower Program.
- Cooperating with an investigation of a complaint conducted under Article IV.

“Improper government activity” by a city officer or employee includes the following:

- Violating local campaign finance, lobbying, conflicts of interests, or governmental ethics laws, regulations, or rules.
- Violating the California Penal Code by misusing city resources.
- Creating a specified and substantial danger to public health or safety by failing to perform duties required by the officer or employee's city position.
- Abusing his or her city position to advance a private interest.

For July through September 2014, the Ethics Commission received five complaints alleging violations of Section 4.115(a) of the Campaign and Governmental Conduct Code. Three of the five complaints alleged retaliation as a result of filing a complaint with the Whistleblower Program. Exhibit 7 shows that of these three complaints, two were closed without moving to a formal investigation and one was still in the preliminary review stage at the end of the quarter.

<b>EXHIBIT 7   Whistleblower Program Retaliation Complaints in Quarter 1</b>	
Action	Count
Open (under investigation) at July 1	0
Received	3
Closed	2
Sustained (of those closed)	0
Open (under investigation) at October 1	1

Source: San Francisco Ethics Commission



## Highlights of Sustained Complaints in Quarter 1

Complaint Category	Complaint/Allegation	Resolution
Other	Operators do not follow the rules and regulations stipulated in license contracts. Also, the operators do not accurately report revenues earned, which determines the amounts they owe the city.	<p>The Whistleblower Program's investigation substantiated that operators did not follow some of the rules and regulations stipulated in the license contracts, including soliciting customers outside sanctioned locations, lacking required fee schedules, not displaying necessary permits, and ignoring the vehicle code. The investigation found that the department did not reconcile revenues reported by the operators and did not verify whether amounts reported were accurate. The investigation did not substantiate that the subjects operated more units than authorized.</p> <p>The Whistleblower Program recommended that the department remind tenants to follow all applicable rules and regulations of their license contracts. The Whistleblower Program also recommended that the department coordinate with all necessary other departments to ensure the tenants abide by the operating rules and regulations. The Whistleblower Program also recommended that the department establish internal controls to ensure that contractors report the correct amount of revenues to the department. The department concurred with all recommendations.</p>
Misuse of City Funds	City funds were used for activities prohibited by San Francisco Administrative Code Appendix 38.	The investigation substantiated that a grant to a nonprofit organization violated the Administrative Code, Appendix 38. The funding department disallowed reimbursement requests for prohibited activities. The nonprofit will not receive a grant in fiscal year 2014-15.

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Complaint Category	Complaint/Allegation	Resolution
Misuse of City Funds	A supervisor directed staff to improperly grant pay premiums to employees and hired employees at an unnecessarily higher pay step.	The department's investigation substantiated that an employee received an incompatible combination of pay premiums. The investigation also found that one of the pay premiums was built into the employee's base rate and that all percentage-based premiums were calculated from this pay rate. This effectively increased the employee's pay through higher premium payments. The department is working with the Office of the Controller to offset amounts improperly paid to the employee. The department was unable to determine whether the increased pay resulted from an intentional or inadvertent action. During the investigation, the department found that the subject employee hired new employees at an unnecessarily higher pay step. Although not prohibited, the department directed the employee to hire future employees at the introductory pay step.

### Summarized Details of All Other Sustained Complaints

All complaints in this section were either sustained, in full or in part, or resulted in a department taking some corrective or preventive action in July through September 2014.

Complaint Category	Complaint/Allegation	Resolution
Improper Activities by City Employees	A city employee operates a private business during city work time, and has coworkers as clients. Also, the employee is chronically late to work.	<p>The investigation substantiated that the employee operates a private business and did not complete the required outside employment approval form. The investigation substantiated that the employee conducted business with coworkers as clients. In one case, a coworker-client submitted documents related to the private business to the employee during work hours and on city premises. The investigation did not substantiate that the employee used city resources to conduct private business.</p> <p>The investigation substantiated that the employee was arriving late to work. The department reprimanded the employee for tardiness and for operating a private business without obtaining the necessary approval for outside employment.</p>
Improper Activities by City Employees	A city employee, a supervisor, is consistently late to work, and the tardiness is not entered into the department's timekeeping system. The lack of supervision that occurs before the supervisor arrives allows subordinate staff to conduct personal business on work time. The subject's supervisor is aware of the tardiness, but will not take action. Instead, the subject's supervisor has requested more employees because the workload is not being completed.	The department's investigation did not substantiate that the subject employee was consistently tardy or that the staff was less productive due to the alleged tardiness. However, in response to the allegations, the department changed payroll time entry policies to ensure that information in the payroll system accurately reflects the hours worked by an employee. The subject employee received a new supervisor as part of a routine rotation. The new supervisor was apprised of the allegations and will monitor staff time and attendance.

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Complaint Category	Complaint/Allegation	Resolution
Improper Activities by City Employees	A city employee routinely parks a personal vehicle in the passenger loading zone outside the location of a nonprofit contractor, forcing vehicles dropping off clients to double park.	The department's investigation found that in the past a city employee parked in the passenger loading zone and once received a ticket for doing so. The contractor's staff advised the city employee of the need to park in a metered location instead. Also, the contractor shared the parking policy in a staff meeting with all employees at the location.
Improper Activities by City Employees	A city employee is chronically late to work, takes extended breaks, fails to complete timesheets, and earns compensatory time despite not working a full shift. The employee also fails to follow call-in procedures when late to work, causing the unit to be short staffed and impacting the unit's ability to provide services.	The department's investigation found that the employee was occasionally arriving late to work and was not following call-in procedures when arriving late. The department counseled the employee regarding the tardiness and instructed the employee to follow proper call-in procedures. The investigation did not substantiate that the employee did not follow proper time-reporting procedures. Further, the department's investigation did not substantiate the allegations that the employee takes extended breaks and receives compensatory time despite not working a full shift.
Improper Activities by City Employees	A city employee sold inappropriately shaped candies in the workplace to coworkers.	The department's investigation substantiated that the employee brought sexually suggestive candies to the workplace, a violation of the City's harassment-free workplace policy. The investigation did not substantiate that those particular candies were sold in the workplace, but did find that the employee sold other homemade candies to coworkers, which violates the City's policy on use of workspace and the department's statement of incompatible activities. The employee received a verbal warning.
Misuse of City Funds	City employees take and sell their department's copper piping for personal gain, on city time, using a city vehicle. The employees' supervisor is aware of the practice, but receives money from the subject employees to host a yearly holiday party.	The Whistleblower Program's investigation did not substantiate the allegations. However, as a result of the investigation, the department implemented preventive and monitoring controls to deter and detect misuse of the copper piping. The department also reissued the statement of incompatible activities to all employees in the unit.

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Complaint Category	Complaint/Allegation	Resolution
Quality and Delivery of Government Services	A department inappropriately billed a customer for services that should be covered by insurance. When the customer attempted to resolve the issue, the department would not reverse the billing.	<p>The investigation found that the department received incorrect information from the client's insurance company. The investigation did not substantiate that the department would not reverse the incorrect billing once it was presented with the correct insurance information.</p> <p>Because of the investigation, the department decided to evaluate its procedures concerning correspondence with insurance companies.</p>
Quality and Delivery of Government Services	The confidentiality of a department's employment examination process was compromised.	The investigation found that the department received protests concerning the examination process. In consultation with the Department of Human Resources, the department determined that the supplemental questionnaires for both examinations should be re-evaluated and scored by raters from other jurisdictions.
Improper Activities by City Employees	A department inadequately conducts the repair and maintenance of city vehicles. Employees are altering and falsifying repair and maintenance information.	The department's investigation identified several areas in which the department did not comply with regulatory or department policy, as well as opportunities for operational improvement. The department made recommendations to bring operations back into compliance with regulation and policy. The investigation did not find that repair and maintenance documentation was falsified or altered.
Wasteful and Inefficient Government Practices	A department's employee time study process is inefficient and burdensome.	The department substantiated the complaint and implemented the immediate remedy of giving certain employees direct access to department payroll records as needed. The department will continue to work with the Office of the Controller to build time study functionality directly into the online timekeeping and payroll system.