



Whistleblower Program

Office of the Controller - City Services Auditor

Whistleblower Program Quarterly Report:
July Through September 2011

January 20, 2011

Background

An amendment to the Charter of the City and County of San Francisco (City) passed by San Francisco voters in 2003, instructed the Office of the Controller (Controller) to administer a whistleblower and citizen complaint hotline telephone number and website, and to publicize the hotline and website through public advertising and communications to employees of the City. As specifically authorized by the Charter, since 2004 the Controller has received and tracked 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 evaluates and forwards complaints received to the appropriate agency. The Charter also instructs the Controller to investigate and attempt to resolve the complaints when appropriate.

Confidentiality, Anonymity, and Whistleblower Protection

As stated in the City's Campaign and Governmental Conduct Code, Section 4.123(a)(i), every officer and employee of the City shall keep confidential the identity of any person who makes a complaint to the Whistleblower Program and any information that would lead to the disclosure of the person's identity, unless the complainant provides written authorization for the disclosure. However, Section 4.123(c) states that nothing shall preclude the Controller from disclosing the identity of the complainant or other information to the extent needed to conduct a civil or criminal investigation or to take any enforcement action. The Controller also can release information as part of a referral when referring any matter to another city department, commission, board, officer, or employee for investigation and possible disciplinary, enforcement, or remedial action.

Complainants have the option of submitting a complaint anonymously. City officers and employees may not use any city resources, including work time, to ascertain or attempt to ascertain the identity of any person who has made a complaint to the Whistleblower Program. Whistleblower Program practices do not permit a complainant to waive anonymity or confidentiality for the disclosure of investigation work product.

Retaliation against whistleblowers is illegal. That is, no city officer or employee may terminate, demote, suspend, or take other similar adverse employment action against a city officer or employee because the employee has in good faith filed a complaint with the Ethics Commission, Controller, District Attorney, City Attorney, or a written complaint with the complainant's department alleging that a city officer or employee engaged in improper governmental activity. Any employee who believes he or she has been the subject of retaliation may file a complaint with the Ethics Commission no later than two years after the date of the alleged retaliation.

Complaints Received

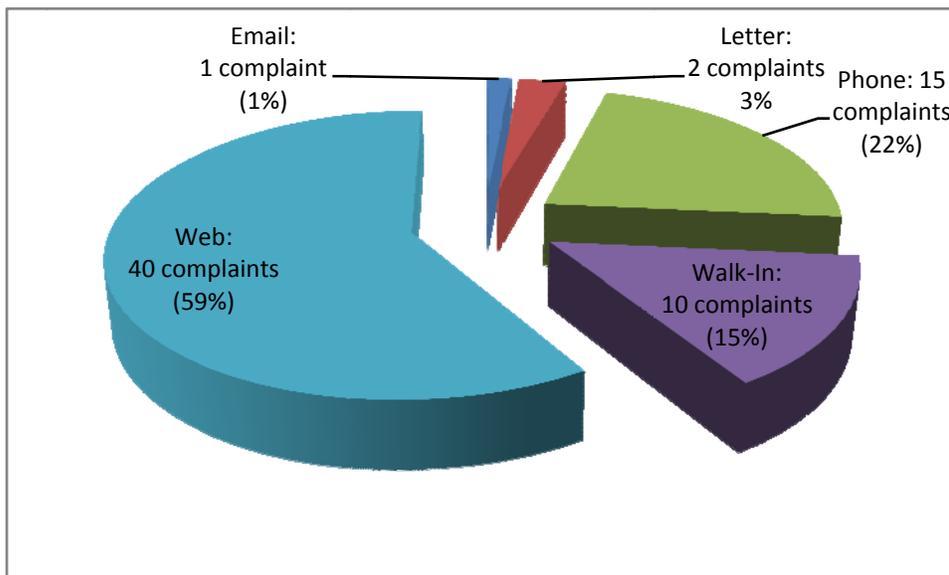
During July through September 2011 (quarter 1), 68 complaints were filed with the Whistleblower Program. In addition, two previously closed complaints were reopened when the complainant contacted the Whistleblower Program with additional information. The Whistleblower Program closed 72 complaints in quarter 1. There were 42 complaints open as of October 1, 2011.

Sources of Complaints Received

As shown in Exhibit 1, 40 complaints (59 percent) received in quarter 1 were submitted through the Whistleblower Program website. This number includes complaints reported through the City's 3-1-1 Customer Service Center. All other complaints were submitted through:

- Direct calls to the Controller's offices (15 complaints)
- Walk-in visits to the Controller's offices (10 complaints)
- Letters sent to the Controller in care of the Whistleblower Program (2 complaints)
- Email to whistleblower@sfgov.org (1 complaint)

EXHIBIT 1 Source of Complaints Received in Quarter 1

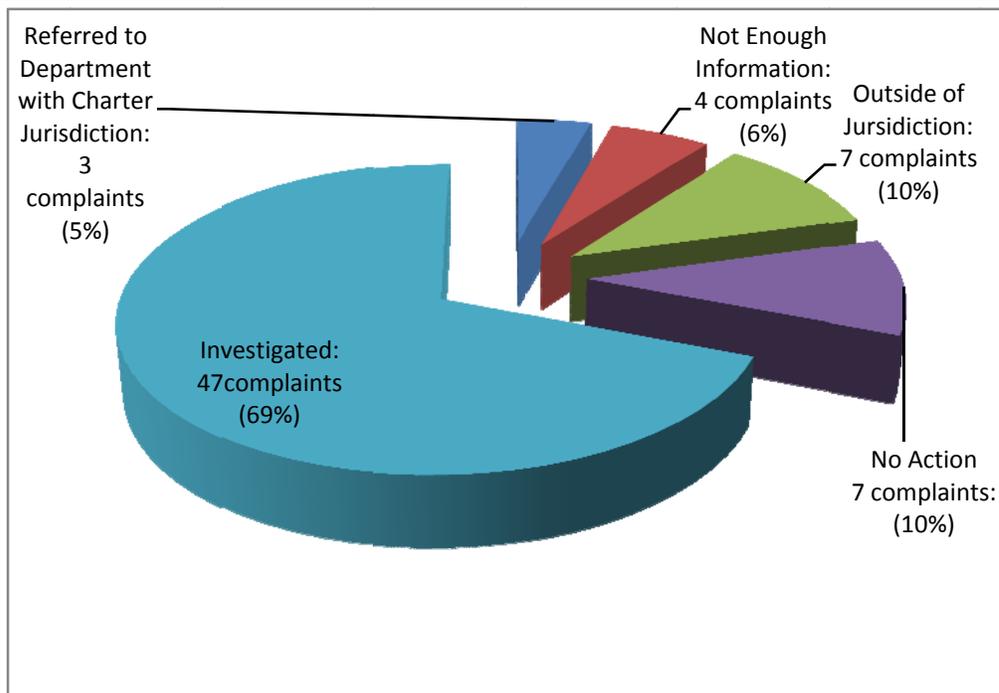


Actions Taken

The Whistleblower Program may lead certain investigations. However, the majority of investigations are coordinated in collaboration with management of the department associated with the complaint. 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 allegations are resolved in a timely manner.

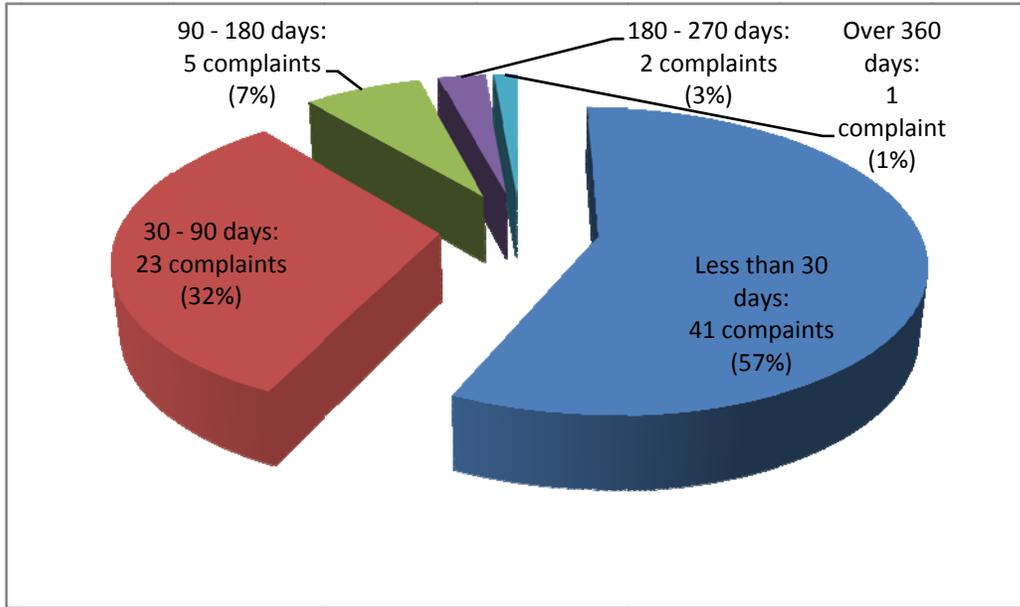
Management of the department associated with the complaint is required to report to the Whistleblower Program on any action(s) taken. The Whistleblower Program reviews departmental actions and investigative findings and, based on this review, determines the adequacy of the information provided, and whether additional action is required before closing the complaint. Exhibit 2 displays the actions taken on complaints received.

EXHIBIT 2 Actions Taken on Complaints Received in Quarter 1



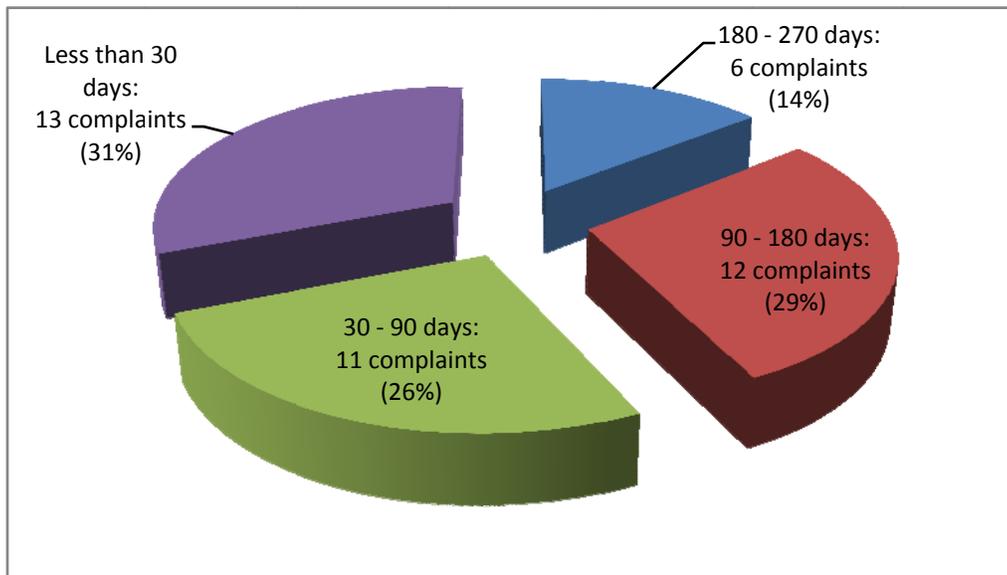
- In quarter 1, 47 of all complaints (69 percent) received were investigated or referred for investigation.
- The remaining 21 complaints (31 percent) were categorized as follows:
 - Not Enough Information (4 complaints) – Insufficient information to perform an investigation (e.g., department, employees involved, vehicle number).
 - Outside of Jurisdiction (7 complaints) – Issue falls within the jurisdiction of state or federal government agencies, or is a suggestion or general complaint regarding decisions that are within management’s discretion.
 - No Action Required (7 complaints) – A complaint was not explicitly conveyed.
 - Referred to Department With Charter Jurisdiction (3 complaints) - Complaints or complainants were referred to the city department with Charter jurisdiction over the issue (e.g., Ethics Commission, City Attorney, District Attorney).

EXHIBIT 3 Aging of Investigated Complaints Closed in Quarter 1



The Whistleblower Program investigated, either alone or in collaboration with another department, and closed 72 complaints in quarter 1. As shown in Exhibit 3, the vast majority (89 percent) of complaints received by the program were closed within 90 days.

EXHIBIT 4 Aging of Investigated Complaints Open at End of Quarter 1



There were 42 complaints open at the close of quarter 1. As shown in Exhibit 4, 24 (57 percent) of these complaints were less than 90 days old. 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, accumulating documentation from multiple sources, interviewing witnesses, and coordinating resources between departments.

Quarter 1 Sustained Complaint Overview

The Whistleblower Program sustained 12 complaints in quarter 1. Exhibit 5 lists the complaints sustained by category. Some complaints may contain more than one type of allegation. Complaints in Exhibit 5 are categorized by their primary allegation.

EXHIBIT 5 Sustained Complaint Allegations in Quarter 1

Complaint Category	Number of Sustained Complaints
Employee Misconduct	2
Misuse of City Vehicle	6
Other	2
Service Complaint	1
Theft of Time	1
Total	12

Exhibit 6 summarizes the corrective actions taken on sustained complaints. Some complaints may involve multiple suspects or contain multiple allegations. As a result, it is possible for a complaint to have multiple dispositions.

EXHIBIT 6 Actions Taken on Sustained Complaints in Quarter 1

Action Taken	Number of Actions Taken
Counseled (Verbal/Written Warning)	7
Other	2
Procedures Changed/Reinforced	3
Resigned/Retired	1
Suspended	1
Total	14

Summarized Details of All Other Sustained Complaints

All complaints included in this section were either sustained in full or in part during July 1 through September 30, 2011.

Complaint Category	Complaint/Allegation	Resolution
Other	A property's tax base did not reflect \$200,000 of construction completed in 2009.	The Office of the Assessor-Recorder valued the new construction, and a supplemental assessment was issued to the taxpayer.
Other	A home addition was occurring without a permit.	This complaint was referred for investigation to the Department of Building Inspection, which issued a notice of violation.

Complaint Category	Complaint/Allegation	Resolution
Employee Misconduct	Employees used city vehicles to take an extended off-site lunch break, and consumed alcohol during this lunch.	<p>The investigation found that employees received supervisor approval to attend a lunch organized for a departing colleague. Employees were allowed to use their vehicles to attend, as it was decided that it was more efficient for field inspectors to drive to the restaurant from their respective field assignments and then proceed to their next assignment immediately after lunch. Additionally, their supervisor approved more than the normal one-hour lunch due to the nature of the event.</p> <p>Staff interviewed denied consuming alcoholic beverages. Employees were reminded of the policy on the use of city vehicles and rules against consuming alcoholic beverages while on duty. A staff meeting was conducted to discuss and review the department's vehicle policy, and copies of the policy were distributed to staff. Employees were instructed that personal time must be used if an event goes beyond the normal one-hour allocation for lunch.</p>
Employee Misconduct	Employees used a city vehicle to visit a spa while on duty.	The department determined that the individuals were employees of a contractor, and that they did have a city vehicle signed out on the days in question. Both individuals were interviewed and both denied going to the spa. They were counseled regarding appropriate use of city resources, such as vehicles, and reminded that they represent the City while at work. The department also implemented monitoring of the work assignments of these employees going forward.
Misuse of City Vehicle	A city vehicle was left unattended while parked in a red zone blocking a fire hydrant.	Global Positioning System (GPS) records confirmed that the vehicle was in the location identified by the complainant. The employee admitted parking in a red zone, but denied blocking a fire hydrant. The employee was instructed not to park in red zones.
Misuse of City Vehicle	An employee operated a vehicle recklessly and shouted obscenities at citizens.	The employee was counseled by their supervisor on how to interact with the public.

Complaint Category	Complaint/Allegation	Resolution
Misuse of City Vehicle	An employee was operating a vehicle while talking on the phone.	GPS records confirmed that the vehicle was in the location identified by the complainant. The employee was instructed not to talk or text on their cell phone while operating a vehicle.
Misuse of City Vehicle	An employee blocked a citizens' driveway with their vehicle, and then threatened the citizen when asked to move the vehicle.	The employee indicated that he did use profanity during the incident, but denied making any threatening statements to the complainant. The findings of the investigation will be documented in the employee's personnel file and reviewed for any necessary disciplinary action.
Misuse of City Vehicle	An employee parked a city vehicle in a bus zone.	The employee was interviewed by the department and admitted fault. The employee was suspended for this incident.
Misuse of City Vehicle	An employee used a cell phone while operating a city vehicle.	The employee was counseled by their supervisor on this incident.
Service Complaint	A department does not respond to correspondence or service request.	The department's policy is to follow-up with call-back requests within two days. The department acknowledged that it failed to call this citizen, inconsistent with its policy. The department contacted the citizen and responded to the service request.
Theft of Time	A department's shift managers are not arriving at work on time.	A review of key card entry logs over a three-month period confirmed that two managers habitually arrived at work later than their scheduled start times. One employee received formal counseling, and then retired shortly after being told the continual tardiness would result in formal discipline. The remaining employee was issued a letter of reprimand.