



Whistleblower Program

Office of the Controller - City Services Auditor

Whistleblower Program Annual Report:
July 2010 Through June 2011

Revised November 22, 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.

The Whistleblower Program - It's Right to Report a Wrong

Complainant protection is critically important to the effective operation of any whistleblower program. The risk and fear of retaliation can deter individuals from reporting allegations of wrongdoing. San Francisco's Whistleblower Program allows employees, contractors, suppliers, or other interested stakeholders to report the misuse of government resources to the City without disclosing their identity. To maintain anonymity, whistleblowers do not have to provide their name or contact information. Instead, when they file a complaint, whistleblowers are provided a tracking number that they can use on the Whistleblower Program's website to stay informed of the general progress or outcome of the investigation of their complaint without making their identity known.

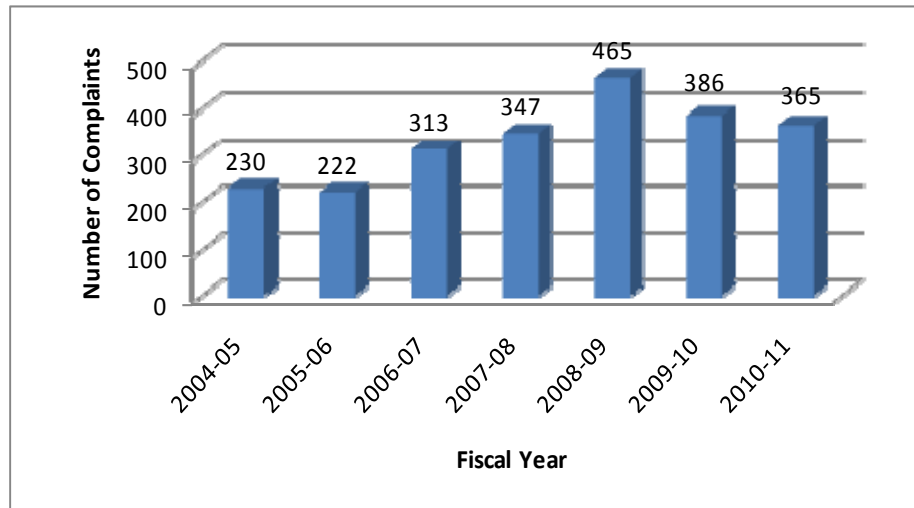
Independently operated by the Controller, the Whistleblower Program has received an average of 332 complaints annually since it was established in 2004. The voter initiative that established the Whistleblower Program assigned oversight of the program to the Citizens' General Obligation Bond Oversight Committee (CGOBOC), giving it an additional duty to serve as a Citizens Audit Review Board. In this role, CGOBOC receives updates and provides feedback on overall program metrics, reviews the program's policies and procedures, and provides feedback to program staff on individual cases.

Both the City, in its Charter, and the State of California prohibit retaliation against whistleblowers. The Charter assigns investigation of retaliation complaints to the Ethics Commission. In a continued effort to maintain a balance between transparency and confidentiality, and protect complainants from retaliation, the Whistleblower Program benchmarks itself against other whistleblower programs to ensure that San Francisco follows best practices. Further, the program adheres to all local and state whistleblower laws regarding investigation work product disclosure.

Complaints Received

The Whistleblower Program received 365 complaints in July 2010 through June 2011 (fiscal year 2010-11), a 6 percent decrease from fiscal year 2009-10. Prior period complaint totals are summarized in Exhibit 1.

EXHIBIT 1 Whistleblower Program Complaints Received by Fiscal Year

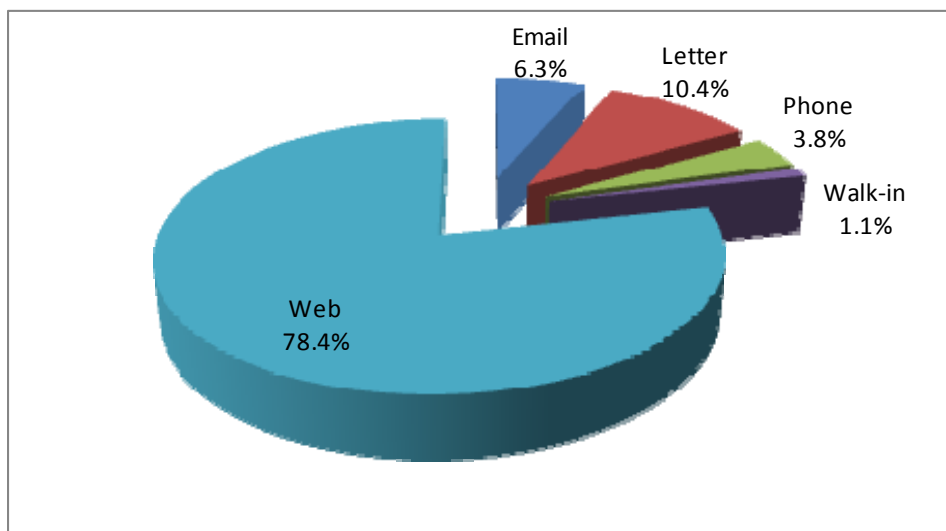


Sources of Complaints Received

As shown in Exhibit 2, in fiscal year 2010-11, 286 (78 percent) of the complaints received 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:

- Letters sent to the Controller in care of the Whistleblower Program (10.4 percent)
- Email to whistleblower@sfgov.org (6.3 percent)
- Direct calls to the Controller's front desk (3.8 percent)
- Walk-in visits to the Controller's offices (1.1 percent).

EXHIBIT 2 Source of Complaints Received in Fiscal Year 2010-11

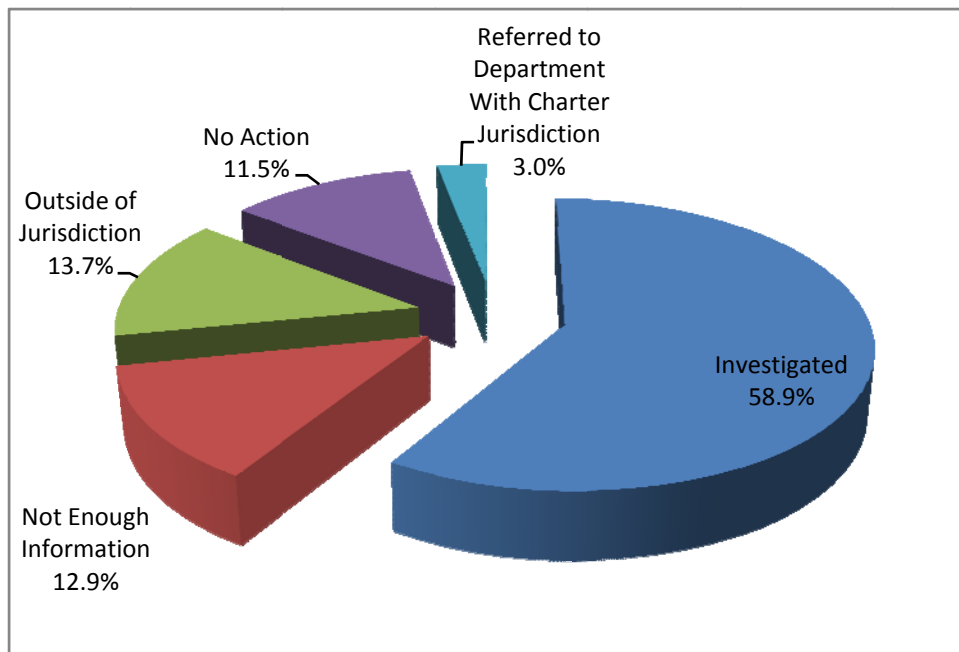


Actions Taken

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 provide guidance for the investigation. This coordinated approach uses the expertise of all involved departments and leverages resources to ensure allegations are resolved in a timely manner.

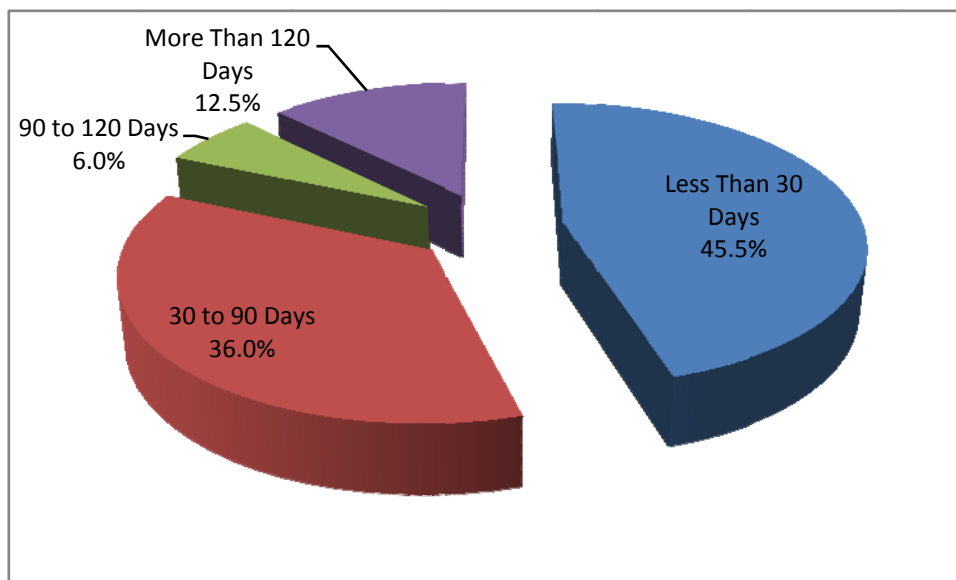
Management of the department associated with the complaint is required to report to the Whistleblower Program on any action(s) taken. The Whistleblower Program reviews departmental actions and investigative findings and, based on this review, determines the adequacy of the information provided, and whether additional action is required before closing the complaint. Exhibit 3 displays the action taken on complaints.

EXHIBIT 3 Actions Taken on Complaints Received in Fiscal Year 2010-11



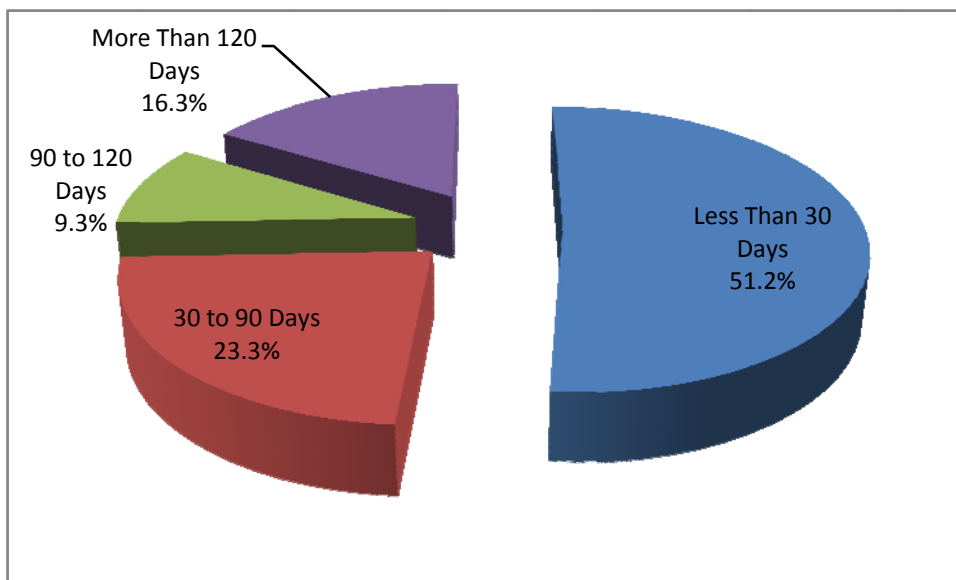
- In fiscal year 2010-11, 58.9 percent (215) of all complaints received were investigated, or referred for investigation.
- The remaining 41.1 percent (150) of complaints were categorized as follows:
 - Not Enough Information (12.9 percent) – These complaints lacked sufficient information to perform an investigation (e.g., department, employees involved, vehicle number).
 - Outside of Jurisdiction (13.7 percent) – These complaints fall within the jurisdiction of state or federal government agencies, or are suggestions or general complaints regarding decisions that are within management's discretion.
 - No Action Required (11.5 percent) – A complaint was not explicitly conveyed.
 - Referred to Department With Charter Jurisdiction (3.0 percent) - Complaints or complainants were referred to the city department with Charter jurisdiction over the issue (e.g., Ethics Commission, City Attorney, District Attorney).

EXHIBIT 4 Aging of Investigated Complaints Closed in Fiscal Year 2010-11



The Whistleblower Program investigated, either alone or in collaboration with another department, and closed 200 complaints in fiscal year 2010-11. As shown in Exhibit 4, the majority (81.5 percent) of complaints received by the program are closed within 90 days.

EXHIBIT 5 Aging of Complaints Under Investigation As of June 2011



There were 43 complaints received in fiscal year 2010-11 that remained under investigation in the early part of fiscal year 2011-12. As shown in Exhibit 5, only 16.3 percent of these open complaints are more than 120 days old. No active cases as of June 30, 2011, have been pending with the program for longer than twelve months. Investigation completion times can vary greatly depending on the complexity of the issues involved. Factors influencing the length of investigations include researching issues identified in the complaint, accumulating documentation from multiple sources, interviewing witnesses, and coordinating resources between departments.

Fiscal Year 2010-11 Sustained Complaint Overview

The Whistleblower Program sustained 59 complaints in fiscal year 2010-11. Exhibit 6 lists the complaints sustained by category. Some complaints may contain more than one type of allegation. Complaints in Exhibit 6 are categorized by their primary allegation.

EXHIBIT 6 Sustained Complaint Allegations in Fiscal Year 2010-11

Complaint Category	Number of Sustained Complaints
Contractor Misconduct	5
Employee Misconduct	10
Misuse of City Equipment	1
Misuse of City Vehicle	17
Other	5
Service Complaint	10
Theft of Time	11
Total	59

Exhibit 7 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 single complaint to have multiple dispositions.

EXHIBIT 7 Actions Taken on Sustained Complaints in Fiscal Year 2010-11

Action Taken	Number of Actions Taken
Counseled (Verbal/Written Warning)	31
Other	14
Procedures Changed/Reinforced	20
Referred to Audit	1
Resigned/Retired	4
Suspended	2
Termination	3
Total	75

Fiscal Year 2010-2011 Complaint Highlights

Complaint Category	Complaint/Allegation	Resolution
Employee Misconduct	A program manager in a city department hired and promoted numerous relatives within their area of direct oversight.	This complaint was found to have merit. Whistleblower Program investigators conducted an extensive investigation in partnership with the Department of Human Resources. One mid-level manager resigned during the investigation, while two staff-level employees were released from their employment with the City after the investigation. An additional individual was released from the City's holdover hiring list. The investigation yielded no other inappropriate familial relationships. Online job applicants are now required to list family members employed by the City.
Theft of Time	A department manager used city funds to pay for a personal trip to a foreign country.	The investigation did not substantiate that city funds were used to pay for a personal trip to a foreign country. The Whistleblower Program found that the employee did not record vacation time for their time out of the office, despite requesting it from their supervisor. Further, investigators found that the manager previously had been reimbursed \$559 by the City for the purchase of a membership in an airline reward program. The Whistleblower Program recommended that the employee repay the City for the reward program membership fee, and that their vacation balance be reduced to reflect the time they were out of the country. The employee has been released by the City.
Contractor Misconduct	A vendor overcharged a city department for services.	The preliminary investigation confirmed numerous unsupported billings at the department and potentially citywide. As a result, the scope of the investigation was increased, and the complaint was referred for an audit. The audit is underway and will be completed in fiscal year 2011-12.
Theft of Time	City employees left work early.	The allegation was not sustained but during the course of the investigation, it was determined that division employees coming off a 7.5 hour double shift were paid for half an hour more than they actually worked. The overall error was approximately \$5,000 and has now been corrected.

Complaint Category	Complaint/Allegation	Resolution
Contractor Misconduct	A city-funded nonprofit organization mismanaged and misused city funds.	Investigators did not determine if there was misuse of city funds after finding that the nonprofit had inadequate financial records. The Whistleblower Program met with the city departments funding the nonprofit and, as a result, the funding departments agreed to discontinue funding for this contractor. This nonprofit provided social services, and received approximately \$500,000 in city funds in fiscal year 2010-11.
Theft of Time	A city employee maintained additional full-time employment during their city work hours.	Whistleblower Program investigators found credible evidence to suggest that the employee held outside employment throughout their time with the City, including performing work for a city contractor and for another jurisdiction. The employee resigned shortly after being presented with the evidence.

Summarized Details of All Other Sustained Complaints

All complaints included in this section were either sustained in full or in part over the period of July 1, 2010, through June 30, 2011.

Complaint Category	Complaint/Allegation	Resolution
Contractor Misconduct	A contractor dumped a substance down a sewage drain.	Department staff met with the contractor to advise them of their contract obligations to adhere to city policies, as well as their responsibilities related to the infractions. A formal letter to the contractor was issued, and work was performed to clean and restore the drain area.
Contractor Misconduct	A contractor which manages a city owned recreation facility did not remit all revenues to the city, as outlined in their contract.	Instead of remitting all revenue to the City, the contractor issued credit memos to offset future reimbursement requests. The department was instructed to require the contractor to stop issuing credit memos and begin remitting all revenue to the City.

Complaint Category	Complaint/Allegation	Resolution
Contractor Misconduct	A city contractor was not holding mandatory public meetings.	The investigation found that the contractor did not hold mandatory public meetings, but did not find this practice to be intentional or in bad faith. The department reminded the contractor of its obligation to hold public meetings, and was instructed to schedule four additional meetings over the course of its city contract.
Employee Misconduct	A city employee was operating a side business that virtually mirrored their city responsibilities.	City employees are permitted to hold outside employment as long as it is reported and approved. This employee admitted to operating a business that performed the same function as their city position. The employee was required to report the business and was reissued the City's guidelines on incompatible activities.
Employee Misconduct	A city employee participated in and had influence over a relative's interview.	The employee was counseled that their direct participation in selection processes for relatives and close friends is unacceptable and will not be tolerated. The department is currently evaluating the possibility of disciplinary action. The department also planned to conduct formal training on rater qualifications and responsibilities for all departmental personnel liaisons to reinforce anti-nepotism policies and the need to protect the integrity of all interview processes to ensure that favoritism, or the perception of favoritism, is not a factor.
Employee Misconduct	A city employee was taking extended breaks.	The employee was verbally reprimanded by their supervisor, and the department took additional administrative action.

Complaint Category	Complaint/Allegation	Resolution
Employee Misconduct	A city employee visited a residence while on the clock.	The employee was instructed not to visit the location while on duty. Furthermore, the department assigned a dedicated supervisor to monitor the employee for compliance.
Employee Misconduct	A supervisor does not arrive to work on time.	The employee was counseled regarding their behavior.
Employee Misconduct	A supervisor is sleeping while at work.	The department took corrective personnel action against the employee.
Employee Misconduct	A city employee was asleep in their vehicle.	The employee was issued a warning for their actions.
Employee Misconduct	City employees were smoking in their warehouse.	The investigation found cigarette butts in the warehouse area. The department informed the facility superintendent of the violations and all personnel were informed that smoking is prohibited in all department facilities. A sign-in sheet was created to document the employee compliance and re-education on this matter.
Employee Misconduct	A city employee visited their personal residence while on the clock.	This employee was previously counseled on a similar complaint. The employee retired from the department.
Misuse of City Equipment	A city employee was browsing the internet during work hours.	The employee's internet records were reviewed and it was determined that they did use department equipment for personal activities. The employee was counseled and reissued the department's "Use of Computer, Email, and Internet Policy."

Complaint Category	Complaint/Allegation	Resolution
Misuse of City Vehicle	A city employee operated their vehicle recklessly.	The employee was verbally counseled by their supervisor.
Misuse of City Vehicle	A city employee used a city vehicle to conduct personal business.	The employee received a written reprimand from their supervisor.
Misuse of City Vehicle	A city employee operated their vehicle recklessly.	The employee received a written reprimand from their supervisor.
Misuse of City Vehicle	A city employee used a city vehicle for personal purposes.	The employee received a written warning in their personnel file, and was prohibited from driving a city vehicle for six months.
Misuse of City Vehicle	A city employee cut-off and yelled at citizen while driving a city vehicle.	The employee was confirmed to be driving a city vehicle in the general area reported by the complainant. The employee was been counseled on safe driving practices
Misuse of City Vehicle	An employee was riding with an animal in their city vehicle.	The employee was counseled that animals are not permitted in city vehicles.
Misuse of City Vehicle	A city employee parked their vehicle in a no-parking zone and acted rudely toward a citizen.	The employee was verbally counseled on the need to interact with the public in a more professional and concerned manner.
Misuse of City Vehicle	A city employee was driving a vehicle without wearing a seat belt.	The employee was counseled by their supervisor on safe driving practices, including the use of seatbelts.
Misuse of City Vehicle	A city employee operated their vehicle recklessly.	The employee was counseled by their immediate supervisor and was given a warning regarding their reckless driving.

Complaint Category	Complaint/Allegation	Resolution
Misuse of City Vehicle	A city employee operated their vehicle recklessly.	The department counseled the employee regarding their unsafe driving and the incident was documented.
Misuse of City Vehicle	A city employee parked in handicapped space.	The employee was counseled regarding the incident, and reissued the department's vehicle policy.
Misuse of City Vehicle	City employees operated their vehicle recklessly and were rude to a citizen.	The department confirmed that the employees were in the location indicated by the complainant. The department counseled the employees on interacting with the public, their customer service skills, and self-reporting incidents involving the public.
Misuse of City Vehicle	A city employee ran a red light and almost hit pedestrians.	GPS confirmed the vehicle was in the location provided by the complainant. The employee was counseled regarding the incident.
Misuse of City Vehicle	A city employee used a city vehicle to pick their children up from school.	This complaint was sustained. The employee admitted to the allegations listed in the complaint. The employee was counseled regarding the incident.
Misuse of City Vehicle	A city employee operated their vehicle recklessly.	The employee received a written reminder for unsafe driving/conduct unbecoming of a city employee.
Misuse of City Vehicle	An employee used a city vehicle to move their personal furniture.	The employee acknowledged using a city vehicle to haul a refrigerator from their home. As a result of the investigation, the city's rules and regulations regarding vehicle usage were redistributed to the division's staff, and vehicle sign-out procedures were implemented.

Complaint Category	Complaint/Allegation	Resolution
Misuse of City Vehicle	A city employee was talking on a cell phone while operating their city vehicle.	The employee was counseled regarding the use of a phone while driving and on general safe driving protocols.
Other	A residence was improperly operating as a bed and breakfast.	The investigation determined that the owners of this property violated city Planning Code. An enforcement notification for violation was sent to the property owners.
Other	Kitchen construction did not have a permit.	The homeowner was issued a notice of violation by the Department of Building Inspection.
Other	City employees did not have the license required for their position.	The department found several employees without the required license. The department corrected this deficiency, and now all employees have the required license.
Other	A department's distribution of overtime hours was unfair.	The department determined that there were issues regarding the availability of equitable assignments for all eligible employees interested in extra hours. To remedy the situation, the department took corrective action, including a review of the specific issues related to the overtime assignments, and a discussion with the department's managers about overtime assignments. The department will randomly audit the distribution of overtime throughout the year to ensure established policies are being followed.
Other	Certain department employees regularly parked their personal vehicles in fire lanes without being ticketed.	Investigators visited locations identified in the complaint and documented instances of personal vehicles parked in fire lanes. As a result, the department updated its policies and procedures to address employee parking, and issued a directive to staff to immediately discontinue fire lane parking. The Department of Parking and Traffic increased patrols of the areas identified in the complaint.

Complaint Category	Complaint/Allegation	Resolution
Service Complaint	A city department provided poor customer service.	Employees were advised of their duties and job requirements.
Service Complaint	A citizen received poor customer service from a city employee.	The employee received a verbal counseling, and was reminded that they serve as a representative of the department.
Service Complaint	A city employee placed a parking citation in a dangerous location on a vehicle.	The employee was counseled regarding the incident and re-trained on the proper procedure for affixing citations.
Service Complaint	A city employee was rude to a citizen.	The department investigated this complaint, and recommended a letter of instruction be given to the employee.
Service Complaint	City employees were rude to a citizen and not consistently applying rules over usage of park playground areas.	The department instructed staff on how to properly inform the public of park policies and rules regarding the allowed usage of park playground areas.
Service Complaint	A city department moved slowly processing a citizen's paperwork.	Due to a miscommunication between employees, the paperwork was not addressed in a timely fashion. The citizen was issued a letter of apology from the department.
Service Complaint	A city department was not fully responding to service requests.	The department instructed its employees to fully read each service request.
Service Complaint	A department was not properly responding to service requests.	The investigation found that the requests were improperly categorized. The department took action to resolve the requests.
Service Complaint	A city department is not responsive to service requests.	The department stated that it will attempt to improve upon the service in this area, and that an enforcement log will be issued for this location to ensure regular service.

Complaint Category	Complaint/Allegation	Resolution
Service Complaint	A city employee used a leaf blower near a playground where children were playing.	The employee and their supervisor came up with a plan to minimize the amount of blowing and to maintain a clean and safe park experience.
Theft of Time	A city vehicle is frequently parked in a residential neighborhood.	The employee has been notified that they are not permitted to drive a department vehicle to their home during work hours without the permission of their supervisor and unless it is for a work-related purpose.
Theft of Time	A city employee falsified their number of hours worked.	After an investigation, the department suspended the employee.
Theft of Time	A city employee falsified their number of hours worked.	The department's investigation found that this employee was in violation of the break and lunch policies.
Theft of Time	An employee intentionally charged time at work when they were out on leave.	The investigation found an instance where the employee did not use leave when they were out of the office. However, the department was unable to determine if this act was intentional. The employee's leave balances were adjusted for the amount of time they were out of the office.
Theft of Time	An employee took advantage of a lack of supervision and falsified hours worked.	The investigation found that there should be an additional level of verification of the employee's time entries before they are approved.

Complaint Category	Complaint/Allegation	Resolution
Theft of Time	City employees were falsifying payroll information.	The department changed their time-recording process to accurately capture the number of hours worked.
Theft of Time	An employee was falsifying the number of hours they worked while telecommuting.	The employee stated that they were unclear on the city's telecommuting policy. The investigation found that the employee often telecommuted without advance notice to their department. The employee resigned during the course of the investigation.
Theft of Time	An employee was falsifying time card information.	The employee was suspended by their department.

Anonymity and Confidentiality

As stated in the Charter Section F, and the City's Whistleblower Program in Campaign and Governmental Conduct Code, Sections 4.100-4.135, the Whistleblower Program offers confidentiality to complainants, complaints and investigations interests because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice.

Whistleblower Program practices do not permit a complainant to waive anonymity or confidentiality for the disclosure of investigation work product. Further, Charter Section F1.110(b) makes confidential all drafts, notes, audits, reports and investigations of the Controller. Grounds for disclosure apply to all complaints, whether currently under investigation or whether the investigation has been closed.

Whistleblower Program Frequently Asked Questions

Why was the Whistleblower Program established?

The Whistleblower Program was created on behalf of San Francisco citizens and government employees to help make San Francisco government more accountable through the prevention and investigation of suspected misuse of city funds, improper activities by city officers and employees, deficiencies in the quality and delivery of government services, and wasteful and inefficient city government practices.

What is the impact of the Whistleblower Program on city government?

When fraud is allowed to continue, it jeopardizes the level of service local government can provide its residents.

- **Someone's Watching:** The Whistleblower Program has a deterrent effect, for both internal and external sources of fraud, waste, and abuse.
- **Someone Cares:** A public message of zero tolerance for fraud, waste, and abuse is sent to citizens and city employees by allocating resources to the Whistleblower Program.
- **Beneficial Contacts:** Interaction with the District Attorney's Office, City Attorney's Office, Police Department, and state and federal data sources helps forge alliances beneficial to the pursuit of reducing fraud, waste, and abuse from government.

What can I report to the Whistleblower Program?

You may report any City and County of San Francisco manager, employee, contractor, or vendor who may be committing fraud, or any practice or act you observe that results in the waste or abuse of city resources.

What information should a complaint include?

When reporting suspected fraud, please provide as much information and detail as possible, including who, what, when, where, why, and how. A complainant should provide complete and specific information regarding the allegation, including the person involved, the time and date(s) of occurrence, and a detailed description of the violation. Complaints with limited details cannot always be investigated.

When should I submit a complaint?

A complaint should be submitted immediately after you believe a reportable offense has occurred.

How can I submit a complaint?

Complaints can be submitted in one of the following ways:

- **Phone:** 311 or 415-701-2311, TTY: 415-701-2323 (*311 will also take non-whistleblower complaints and answer questions regarding other city services and issues*)
- **Online:** www.sfgov.org/whistleblower
- **E-mail:** whistleblower@sfgov.org
- **Mail:** Whistleblower Program, Rm.316, 1 Dr. Carlton B. Goodlett Pl, San Francisco, CA 94102

What happens when I submit a complaint?

Each whistleblower complaint is assigned a unique tracking number. An initial assessment is done to determine whether the case has merit and how it should be handled. Complaints are referred to appropriate parties for follow-up action or investigated by the Controller's Office. Submission of a complaint to the Whistleblower Program only ensures that the complaint will be reviewed for possible investigation.

May I remain anonymous when filing a complaint?

Yes, you may remain anonymous.

Will anyone, including the suspect(s) find out that I reported the fraud?

No, unless a court order requires documents to be made public or you are required to testify at a disciplinary hearing. It should be noted that to date no identifying information has been released by the Whistleblower Program.

How does the Whistleblower Program protect my confidentiality?

Identifying information is not provided to anyone outside of the Whistleblower Program without your expressed written consent. Even with your consent, your information will not be available publicly or provided to the individuals identified in the complaint without the presence of a court order or the requirement to testify at a disciplinary hearing.

The City and County of San Francisco Charter, Section F1.107(c), required the Board of Supervisors to enact and maintain an ordinance protecting the confidentiality of whistleblowers and protecting city officers and employees from retaliation for filing a complaint with, or providing information to the Controller's Office, Ethics Commission, District Attorney's Office, City Attorney's Office, or a city department or commission about improper governmental activity. The Board of Supervisors enacted Campaign and Government Conduct code sections 4.100 – 4.135 "Reporting Improper Government Activity; Protection of Whistleblowers," which prohibits city officers and employees from using 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.

If I give my telephone number or email address, will an investigator contact me?

If you provide contact information, you will be informed of your complaint's tracking number. An investigator may call you if they need additional information regarding your allegation.

Can I check on the status of the investigation?

Yes, you may check the status of your case by going to the Whistleblower Program website and selecting "Check Status of Complaint." You will then need to enter your assigned tracking number. You may check to see if a case is open or closed. However, no specific details of any ongoing investigation will be provided. In addition, you cannot receive a copy of the investigative report – this information is considered confidential.

How long does it take for a case to be investigated?

Investigations vary from a couple of weeks to several months, depending on complexity.

What will happen to the person I am reporting?

If an allegation is confirmed, the suspect(s) could be disciplined. Disciplinary action is determined by the department for which the suspect works and is confidential. Discipline can include dismissal, suspension, reprimand, etc. However, if the suspect is criminally prosecuted, the case becomes a public record.

How is disciplinary action determined in a sustained complaint?

The employee's department head/appointing officer administers appropriate discipline of employees. While the City is committed to a progressive discipline program, the nature of the offense generally determines the level of discipline, up to and including termination.