



Whistleblower Program

Office of the Controller - City Services Auditor

Whistleblower Program Annual Report:
July 1, 2009 to June 30, 2010

September 7, 2010

Background

Proposition C (Prop C), passed by the voters in November 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 City and County of San Francisco (City) employees. Specifically, Prop C requires the Controller to receive and track complaints on the quality and delivery of government services, wasteful and inefficient City government practices, and 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. Prop C also instructs the Controller to investigate and attempt to resolve the complaints when appropriate.

Whistleblowers and the Local Government

The trust of the public is fragile - easy to lose and hard to gain. The Whistleblower Program serves as a practical tool to establish, maintain, and improve public trust in the City's ability to provide high quality, fiscally responsible government services.

In its 2010 Report to the Nations on Occupational Fraud and Abuse, the Association of Certified Fraud Examiners reported that 46.3% of fraud cases discovered by government entities occurred as a result of a tip.¹ However, the risk and fear of retaliation can deter individuals from reporting allegations of wrongdoing by a colleague, manager, or City vendor.

The Whistleblower Program gives individuals the ability to anonymously report incidents of wrongdoing. Although anonymous reporting is an effective means of identifying potential irregularities, complainant contact information is sometimes necessary to ask follow-up questions pertinent to the allegations. Complainant contact information is never released to the individuals named in the complaint, the City department, or the public. Identifying information can only be released through explicit written consent from the complainant or by court subpoena.

The San Francisco Whistleblower Ordinance protects City employees and officers who, in good faith, file complaints of improper governmental activities by City employees and officers. The ordinance does not protect individuals from adverse employment action taken by the City and County of San Francisco regardless of whether or not they had filed a whistleblower complaint.

Contact the Controller's Office Whistleblower Program

Whistleblower Hotline: 3-1-1 / TTY: 415-701-2323

Outside of area code 415: 415-701-2311 / TTY: 415-701-2323

Online: www.sfgov.org/whistleblower

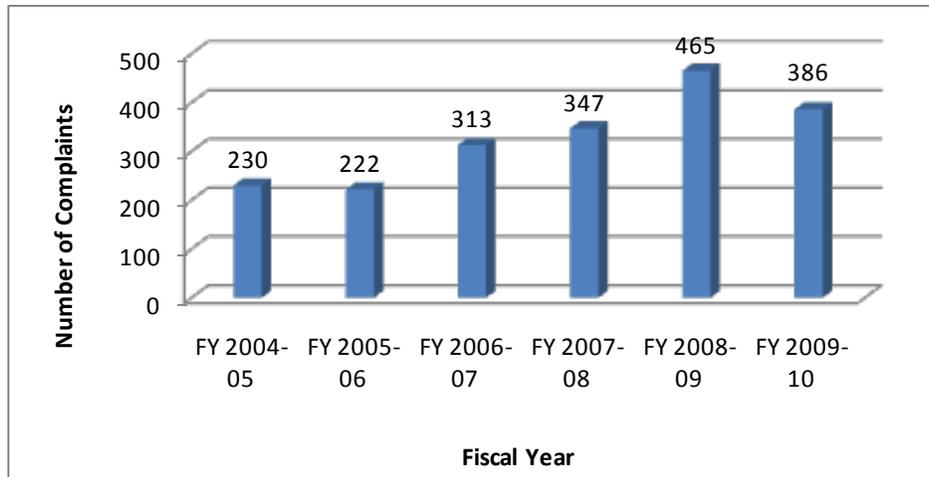
E-mail: whistleblower@sfgov.org

¹ Association of Certified Fraud Examiners. (2010) *2010 Report to the Nations on Occupational Fraud and Abuse*.

Complaints Received

The Whistleblower Program received 386 new complaints in fiscal year (FY) 2009-10, a 17 percent decrease from FY 2008-09. Prior years' complaints are summarized in the figure below (Exhibit 1).

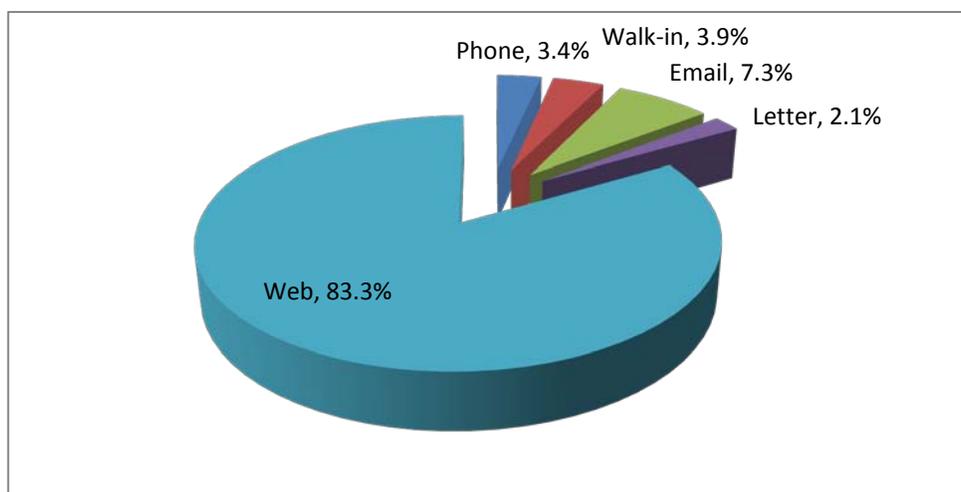
EXHIBIT 1 Whistleblower Program Complaints Received by Fiscal Year



Sources of Complaints Received

In FY 2009-10, 322 (83.3 percent) were submitted through the Whistleblower Program website (Exhibit 2). This number includes complaints reported through the 3-1-1 Customer Service Center. All other complaints were submitted through the following: via e-mail to whistleblower@sfgov.org (7.3 percent); letters sent to the Controller's Office in care of the Whistleblower Program (2.1 percent); direct calls to the Controller's Office front desk (3.4 percent); and walk-ins to the Controller's Office (3.9 percent).

EXHIBIT 2 Sources of Complaints Received

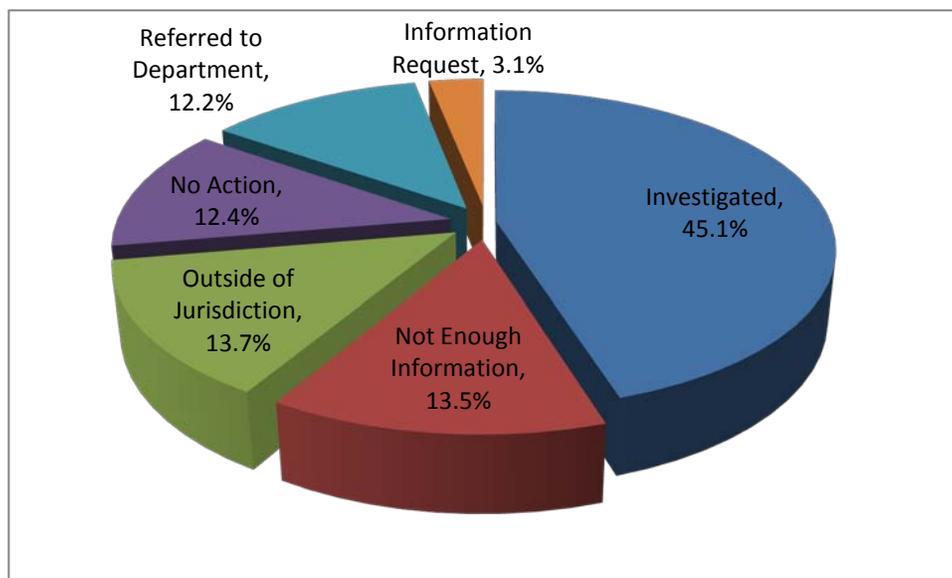


Actions Taken

The Whistleblower Program may assume a lead role in conducting 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 takes the lead role in the investigation, and (where appropriate) the Whistleblower Program provides direction and guidance for the investigation. This coordinated approach utilizes the expertise of all involved departments and allows for the leveraging of resources to ensure allegations are resolved in a timely manner.

Department management is required to report to the Whistleblower Program on any action(s) taken. The Whistleblower Program reviews departmental actions and investigative findings. Based on this review, the Whistleblower Program determines the adequacy of the information provided, and whether additional action is required prior to closing the complaint.

EXHIBIT 3 Actions Taken on Complaints Received



- In FY 2009-10, the Whistleblower Program facilitated the investigation of 45 percent (174) of all complaints received (Exhibit 3).
- The remaining 55 percent (212) of complaints were categorized as follows:
 - Not Enough Information (13.5 percent) – These complaints lacked sufficient information necessary to perform an investigation (i.e. department, date of occurrence, vehicle number).
 - Referred to Another Department (12.2 percent) – These complaints fall within the jurisdiction of another agency, such as the Office of Citizen Complaints or the Ethics Commission.
 - No Action (12.4 percent) – The complaint was not explicitly conveyed.
 - Outside of Jurisdiction (13.7 percent) – These complaints are concerns regarding management decisions, or state or federal government agencies.
 - Information Requests (3.1 percent) – These inquiries are from individuals who request information on City departments or services.

Summarized Details of Select Complaints

The complaints described in this section are official and confidential information. The Controller acquired the data in confidence; specific details are not disclosed to the public in order to preserve confidentiality.

Complaint	Resolution
<p>Allegation that a community based organization received reimbursement with City funds for the purchase of alcohol, cigarettes, groceries, and fictitious expenditures.</p>	<p>This complaint was found to have merit. The Whistleblower Program determined that the City reimbursed the organization for the purchase of alcohol, cigarettes, groceries, and fictitious expenditures.</p> <p>The Whistleblower Program recommended the sponsoring City department discontinue future funding of the organization and seek reimbursement for the unallowable expenditures. The sponsoring City department informed the organization of the unallowable expenditures identified and discussed the appropriate actions to be taken by the organization.</p>
<p>Allegation of inappropriate behavior by City employees during a department's vendor solicitation and selection process.</p>	<p>The Whistleblower Program determined that department did not comply with standard practices that are customarily followed during the vendor solicitation and selection processes, creating the appearance of bias against one vendor.</p> <p>The Whistleblower Program recommended that the department reissue the contract. The department rejected all vendor proposals and has not restarted the vendor solicitation process.</p>
<p>Allegation that two City employees received overtime pay despite not working their reported time. Complaint alleged that the two employees were approving their own time cards, and the supervisor was aware of the practice but ignored it because of their friendship with the employees.</p>	<p>The investigation found no abuse of overtime, but established that the employees erroneously received a type of premium pay not provided for under their collective bargaining agreement.</p> <p>As a result of the investigation, the premium pay practice was discontinued. Department management notified all related parties of the payroll error in order to prevent a similar incident from occurring in the future. The department is working on internal processes to create additional accountability over the employee payroll process.</p>
<p>Allegation that a contractor overcharged the City for interest expense.</p>	<p>This complaint was found to have merit. The department and the Whistleblower Program determined that the City was overcharged by approximately \$20,000.</p> <p>As a result, the contractor credited the City for the amount of the overcharge. The department updated its internal procedures to more closely monitor interest charges and prevent future discrepancies.</p>
<p>Allegation that an employee solicited coworkers to purchase bidets from their personal business on City property during work hours.</p>	<p>This complaint was found to have merit. The employee admitted to selling the bidets over a five day period, but stated they only sold the products during break times and after work hours. The employee was counseled regarding the incident, and all of the division's employees were required to review the City's Statement of Incompatible Activities.</p>

Complaint	Resolution
<p>Allegation that \$6,000 was missing from a department's cash deposit.</p>	<p>The Whistleblower Program investigation confirmed that \$6,000 of cash was missing from the department's cash deposit, and concluded that the shortage occurred prior to the bank deposit. The Whistleblower Program found that the irregularity was enabled by the department's weak internal controls over the employee cash handling process.</p> <p>The investigation was unable to determine the specific cause of the shortage, but made a number of recommendations to prevent future cash shortages, including double custody cash counts, improved video surveillance in cash handling areas, and developing procedures to report discrepancies to management and the proper authorities in a timely manner.</p>
<p>Allegation that a City employee submitted a reimbursement request for a conference they did not attend. As proof, the complainant submitted multiple letters from the conference organizers requesting the overdue payment.</p>	<p>This complaint was found to have no merit. A joint investigation by the Whistleblower Program and the District Attorney's Office found that the employee did pay for the conference in time, but a mistake by the conference organizers resulted in the employee's payment being misplaced and erroneous letters of overdue payment being sent to the employee.</p>
<p>Allegation that a non-profit used City funds to print and distribute political fliers.</p>	<p>This complaint was found to have merit. The investigation concluded that City funds were used to distribute political fliers to citizens that relied on the services of the non-profit.</p> <p>The sponsoring department issued a letter counseling the non-profit, and warned a repeat of this activity will prevent the non-profit from receiving future contracts with the City.</p>
<p>Allegation that City employees used City information technology and misled their fellow colleagues into building an internet company for their personal gain.</p>	<p>This complaint was closed following a joint investigation by the Whistleblower Program and the City Attorney's Office. These allegations could not be substantiated with the information provided by the whistleblower. The Whistleblower Program made multiple requests for the complainant to provide additional information but did not receive a response.</p>

As stated in City and County of San Francisco 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 interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice.

City and County of San Francisco Charter, Section F1.110(b) makes confidential all drafts, notes, audits, reports and investigations of the Controller. Complaints currently under investigation are confidential under this provision and will not be disclosed. Grounds for disclosure apply to all complaints, whether currently under investigation or whether the investigation has been closed.

Whistleblower Program Frequently Asked Questions

Why did the City and County of San Francisco establish the Whistleblower Program?

The Whistleblower Program was created on behalf of San Francisco citizens and government employees to help make City government more accountable through the prevention and investigation of suspected waste, fraud, and abuse.

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 help forge alliances beneficial to the pursuit of reducing fraud, waste, and abuse from government.

What can I report to the Whistleblower Program?

Any kind of fraud or misconduct can be reported, with certain exceptions, which are noted below. 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 and County resources.

Some misconduct complaints if reported to the Whistleblower Program, including criminal acts, recipient welfare fraud, claims for child support, or allegations of child abuse are referred by the Whistleblower Program to other agencies for investigation.

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 to the investigators. 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 through one of the following ways:

- **Phone:** 3-1-1 or 415-701-2311, TTY: 415-701-2323 (*3-1-1 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 submitted 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. 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?

If you request your identity remain confidential, the Whistleblower Program will not identify you to anyone. However, if the investigation results in criminal prosecution, it is possible our records may be subpoenaed by the court.

How does the Whistleblower Program protect my confidentiality?

City and County of San Francisco Charter, Section F1.107(c) requires 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 City Attorney's Office has advised that the Controller's Office has a duty to maintain the confidentiality of the identity of whistleblowers even in the absence of such an ordinance.

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

Possibly. If you provide contact information, 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 the complexity of the case.

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(s) is criminally prosecuted, the case becomes a public record.