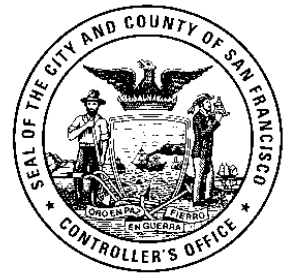


Whistleblower Program Quarterly Report

January 1 Through March 31, 2022



August 2, 2022

City & County of San Francisco
Office of the Controller
City Services Auditor

About the Audits Division

The City Services Auditor (CSA) was created in the Office of the Controller through an amendment to the Charter of the City and County of San Francisco (City) that voters approved in November 2003. Within CSA, the Audits Division ensures the City's financial integrity and promotes efficient, effective, and accountable government by:

- Conducting performance audits of city departments, contractors, and functions to assess efficiency and effectiveness of service delivery and business processes.
- Investigating reports received through its whistleblower hotline of fraud, waste, and abuse of city resources.
- Providing actionable recommendations to city leaders to promote and enhance accountability and improve the overall performance and efficiency of city government.

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<http://sfcontroller.org/whistleblower-program>



<http://www.sfcontroller.org>



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Whistleblower Program Authority

CSA conducts investigations under the authority of the San Francisco Charter, Appendix F, which requires that CSA receive individual complaints concerning the quality and delivery of government services, wasteful and inefficient city government practices, the misuse of city government funds, and improper activities by city government officers and employees.

Executive Summary

INVESTIGATION HIGHLIGHTS

The Whistleblower Program of the City and County of San Francisco (City) received 136 new reports in Quarter 3 (January 1 through March 31, 2022).

- The Whistleblower Program has received more reports each year since fiscal year 2013-14.

The Whistleblower Program closed 137 reports in Quarter 3 and did so in an average of 44 days.

- The program closed 124 (91 percent) of the 137 reports within 90 days of receipt.
- Of the 137 reports closed, 80 (58 percent) reached closure after an investigation.
- Of the 80 investigations closed, 30 (38 percent) resulted in a city department or contractor taking 34 corrective or preventive actions.
- The program substantiated a diverse and complex set of allegations, including those concerning an employee and their manager not reporting damage to a city vehicle driven by the employee, an employee misusing city resources by driving their child to school using a city vehicle while on city time, and an employee inappropriately directing verbal threats toward other employees in the workplace.

At the end of Quarter 3, the Whistleblower Program had 60 reports open, 51 (85 percent) of which were 90 days old or less at that time.

To continue to manage the sustained, high number of reports received, the program has a multidisciplinary Controller's Office (Controller) team, along with a coordinated referral and follow-up process with the City Attorney's Office (City Attorney), District Attorney's Office (District Attorney), Ethics Commission, and others with jurisdictional oversight, that collectively possesses the experience and expertise to address the diverse range of allegations received.

PUBLIC INTEGRITY TIP LINE

In response to the federal criminal charges filed against former city officials and others, which were initially made public in January 2020, the City Attorney is leading the investigation into alleged wrongdoing outlined in criminal charges brought by the U.S. Attorney's Office. Also, in February 2020 the Controller and City Attorney opened a Public Integrity Tip Line (Tip Line) to gather any investigation-related information it might receive.

The Controller, in cooperation with the City Attorney, began a series of reviews of Public Works and other departments' internal control processes for contracts, purchase orders, and grants for red flags and process failures. To date, the Controller has issued the results of the following eight public integrity preliminary assessments, one audit, and one 12-month update on the implementation status of recommendations from the assessments it had completed through August 4, 2021:

- San Francisco Public Works Contracting
- Gifts to Departments Through Non-City Organizations Lack Transparency and Create “Pay-to-Play” Risk
- San Francisco’s Debarment Process
- Ethical Standards for Contract Award Processes of the Airport Commission and Other Commissions and Boards
- Refuse Rate-Setting Process Lacks Transparency and Timely Safeguards
- 12-Month Update: Implementation Status of Recommendations From Assessments to Date
- Department of Building Inspection’s Permitting and Inspections Processes
- San Francisco Public Utilities Commission’s Social Impact Partnership Program Audit
- San Francisco Department of the Environment’s Relationship with Recology and Lack of Compliance with Ethics Rules
- Refuse Rate-Setting Process – Update Based on Additional Reviews and Meetings with Recology

Preliminary assessments underway will review procurement and award of the landfill disposal agreement, procurement processes at the San Francisco Public Utilities Commission, and citywide ethics rules and procedures. These public integrity preliminary assessments will include internal control reviews, when applicable, and best practice recommendations.

FISCAL YEAR 2021-22 OUTREACH AND EDUCATION HIGHLIGHTS

In May 2022 the Whistleblower Program hosted a webinar, *Pandemic Response: Where to Focus Your Investigations and Audits*, to promote leading fraud hotline operational practices and effective investigative techniques to jurisdictions throughout the United States.

THE INVESTIGATION AND REFERRAL PROCESS

The Whistleblower Program is the City’s central point for report intake and coordinated referrals. This process helps ensure that reports are promptly assigned and investigated so city management can address them and identify risk trends.¹ Exhibit 1 shows how the Whistleblower Program receives and address allegations.

¹ See page 15 for additional information on how the Whistleblower Program refers reports to other agencies.

Exhibit 1: How the Whistleblower Program receives and addresses allegations

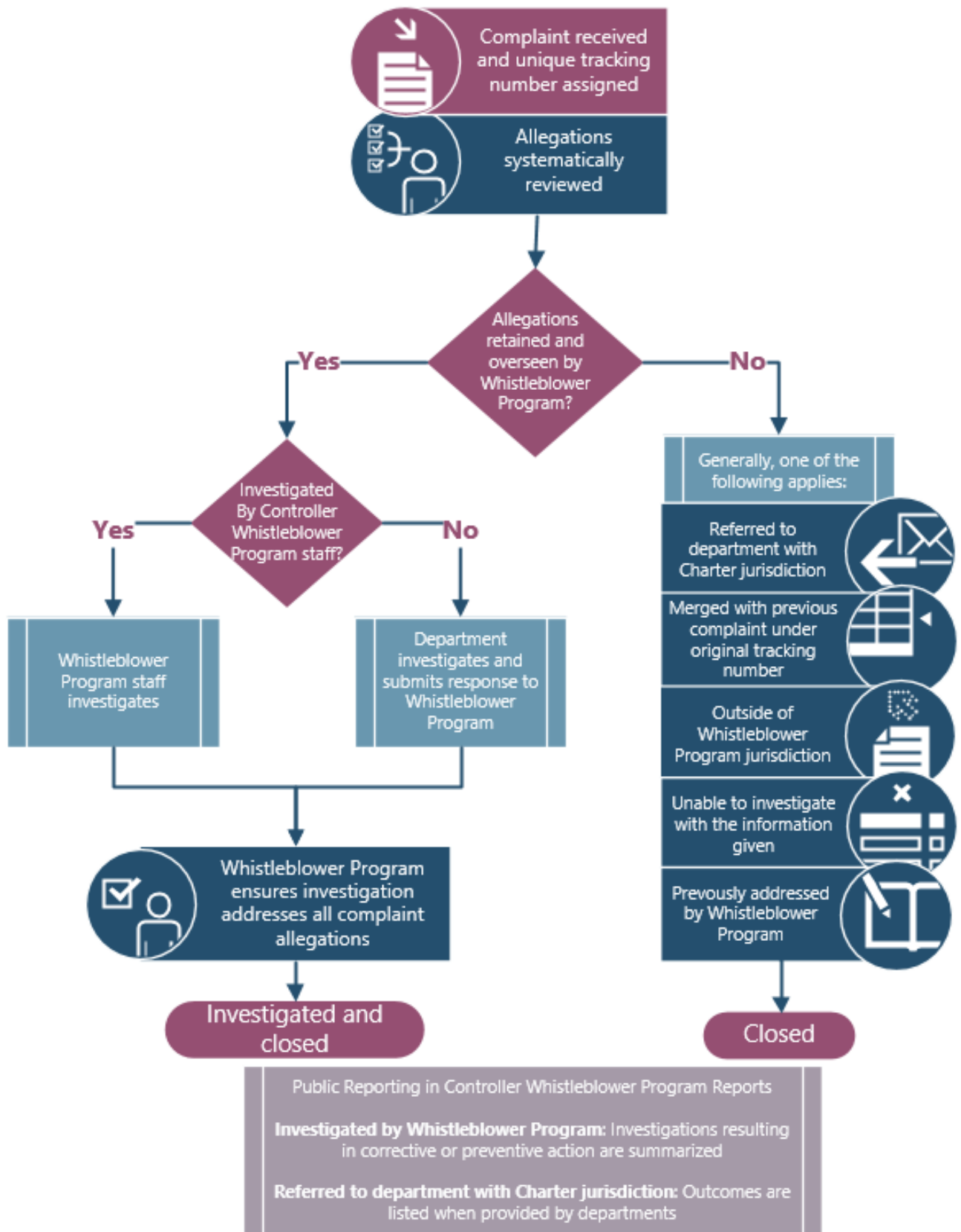


Table of Contents

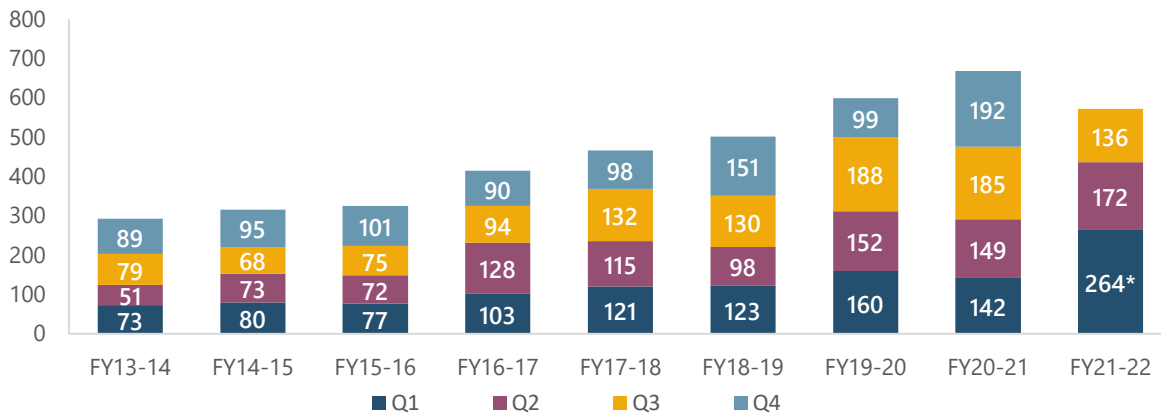
Executive Summary	3
Investigation Highlights	3
Public Integrity Tip Line	3
Fiscal Year 2021-22 Outreach and Education Highlights	4
The Investigation and Referral Process	4
Table of Contents	6
Quarter 3 – Key Statistics	7
Report Volume	7
Report Intake Channel	9
Disposition of Closed Reports	11
Report Outcomes	13
Reports Referred to Other Agencies	15
Reports Open (Excluding Referred Complaints) on March 31, 2022	17
Whistleblower Retaliation	18
Public Integrity Tip Line	19
Investigation Results	21
Summary of All Investigations Resulting in Corrective or Preventive Action in Quarter 3	21
File a Whistleblower Report	26
Whistleblower Program Contact Information	26
File a Public Integrity Tip	26

Quarter 3 – Key Statistics

REPORT VOLUME

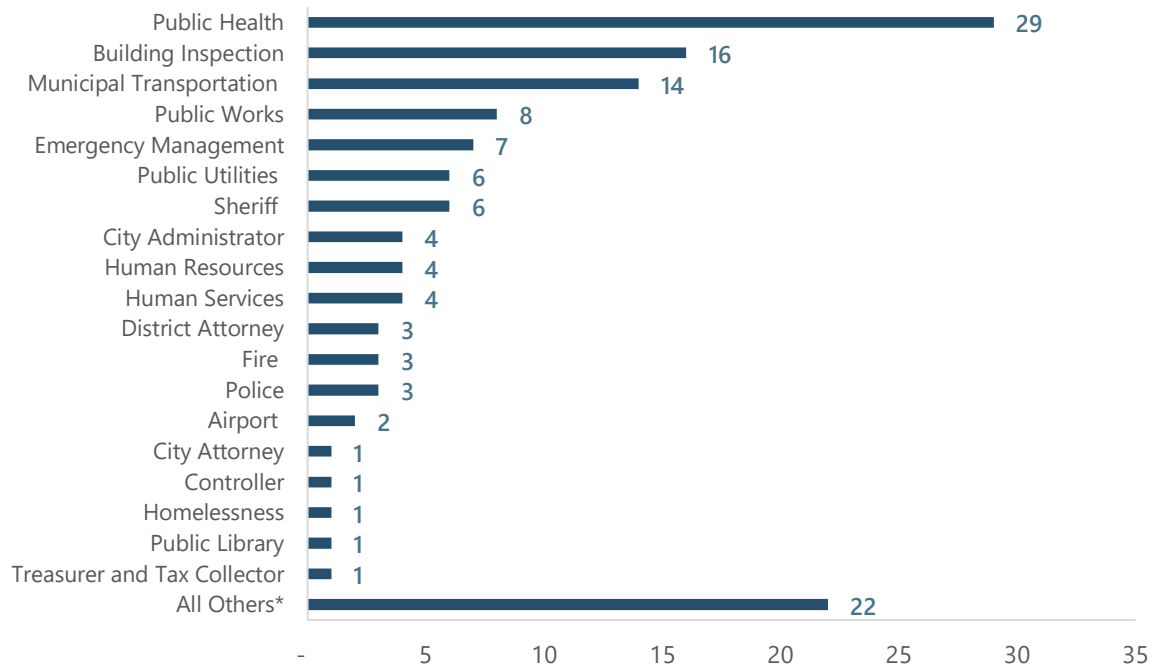
In Quarter 3 the Whistleblower Program received 136 new reports. Exhibit 2 summarizes the program’s receipt of new reports, by quarter, since fiscal year 2013-14, and Exhibit 3 shows the reports received in Quarter 3.

Exhibit 2: Reports received, by quarter, since fiscal year 2013-14



Note: * The Whistleblower Program received a significant number of reports in Quarter 1 that did not contain sufficient information for investigators to meaningfully address through investigation or referral.

Exhibit 3: Reports received in Quarter 3, by department



Note: * Includes reports received about departments with fewer than 200 authorized full-time equivalent (FTE) positions. The names of these departments are excluded to protect the confidentiality of those who reported. The City has over 50 departments and divisions, of which 26 have fewer than 200 FTE positions.

Exhibit 4 shows the allegation categories reporters used when filing reports that the Whistleblower Program investigated and closed.

Exhibit 4: Allegation categories of reports investigated and closed in Quarter 3

Department	Quarter 3 of Fiscal Year 2021-22						
	Improper Activities by City Employees	Misuse of City Funds	Quality and Delivery of Government Services	Wasteful and Inefficient Government Practices	Other	Multiple Allegation Categories	Total
Public Health	7	1	1	0	2	7	18
Municipal Transportation	6	0	1	0	2	5	14
Building Inspection	4	0	1	0	1	3	9
Human Services	1	0	0	0	0	4	5
Public Utilities	1	0	0	0	0	3	4
Public Works	0	0	0	0	0	4	4
Controller	3	0	0	0	0	0	3
Emergency Management	1	0	1	0	0	0	2
Fire	2	0	0	0	0	0	2
Human Resources	0	0	0	0	0	2	2
Airport	1	0	0	0	0	0	1
Assessor-Recorder	1	0	0	0	0	0	1
City Administrator	0	0	0	0	0	1	1
District Attorney	1	0	0	0	0	0	1
Homelessness	0	0	0	0	0	1	1
Public Library	1	0	0	0	0	0	1
Recreation and Park	0	1	0	0	0	0	1
Sheriff	1	0	0	0	0	0	1
All Others*	2	0	2	0	2	3	9
Total	32	2	6	0	7	33	80

Note: * Includes reports received about departments with fewer than 200 authorized FTE positions. The names of these departments are excluded to protect the confidentiality of those who reported. The City has over 50 departments, of which 26 have fewer than 200 FTE positions.





The Whistleblower Program has received more reports each year since fiscal year 2013-14. The rising number of reports received in recent years cannot be attributed to just one factor. To continue to manage the sustained, high number of reports received, the program has a multidisciplinary team of Controller staff that uses a coordinated referral and follow-up process with the City Attorney, District Attorney, Ethics Commission, and others with jurisdictional oversight. Together, the Whistleblower Program and its partners collectively possesses the experience and expertise to address the diverse range of allegations received. Further, this multiagency, coordinated referral and follow-up process creates safeguards that mitigate investigative conflicts of interest when complaints are received about certain departments or department heads.

REPORT INTAKE CHANNEL

Of the 136 reports filed in Quarter 3, 116 (85 percent) came through the Whistleblower Program’s online report form. The Whistleblower Program is available to anyone, including city employees, contractors, and members of the public. Multiple intake channels ensure the program is readily accessible to potential reporters and available to them in a manner with which they are comfortable reporting. The majority (83 or 61 percent) of reports were filed anonymously.

Exhibit 5 summarizes reporters’ use of various channels to file reports with the Whistleblower Program.

Exhibit 5: 116 of the 136 reports received in Quarter 3 came through the online report form

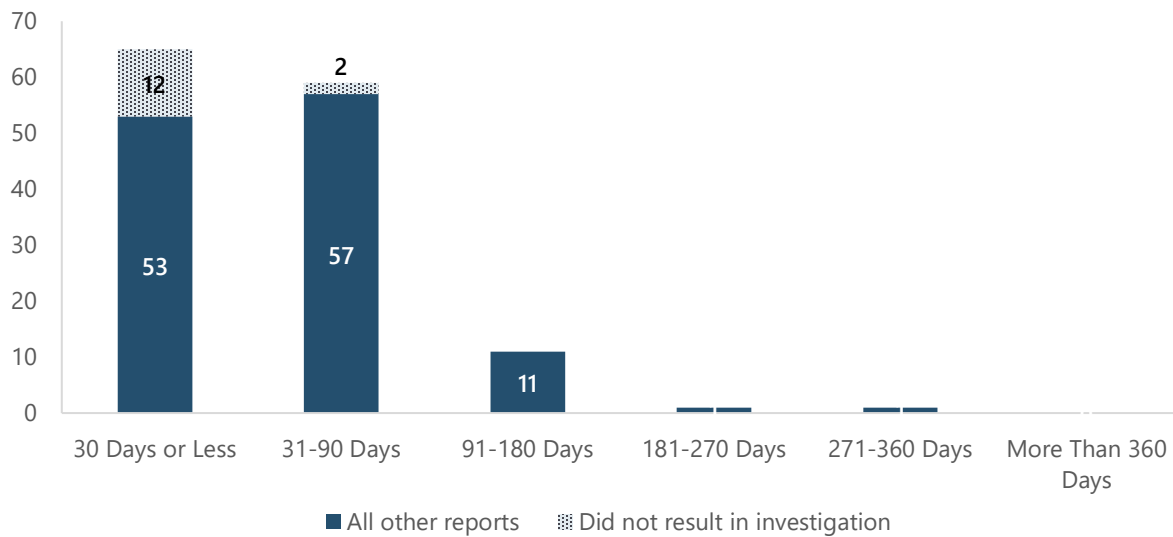
Channel	Reports Filed		Reports Filed Anonymously	
 Online	116	85%	71	52%
 E-mail	8	6%	2	2%
 Mail	8	6%	7	5%
 Phone	4	3%	3	2%
Total	136	100%	83	61%

Regardless of the reporting channel used, each report is assigned a unique tracking number and is systematically reviewed so it can be resolved as efficiently and effectively as possible while also ensuring investigation protocols and ethical safeguards are met. Having the Whistleblower Program as the City’s central point for report intake and coordinated referrals helps ensure that reports are promptly assigned and investigated so city management can address them and identify risk trends.

Report Closure Time

In Quarter 3 the Whistleblower Program closed 137 reports and did so in an average of 44 days. Closed reports include reports that were retained and addressed by the Whistleblower Program and reports that were referred to other departments that have Charter jurisdiction over the alleged issues. (See Exhibit 6 for a complete summary.) Closed reports also include 14 (10 percent) reports that did not result in investigations. The program closed 124 (91 percent) of the 137 reports within 90 days of receipt, exceeding its goal to close at least 75 percent of all reports within 90 days. Exhibit 6 shows the age of reports closed in Quarter 3.

Exhibit 6: 91 percent of reports closed in Quarter 3 were closed within 90 days



If reports are not resolved in a timely manner, reporters may conclude that their allegations are not being taken seriously or not being acted on. However, several factors can influence report closure time, including the:

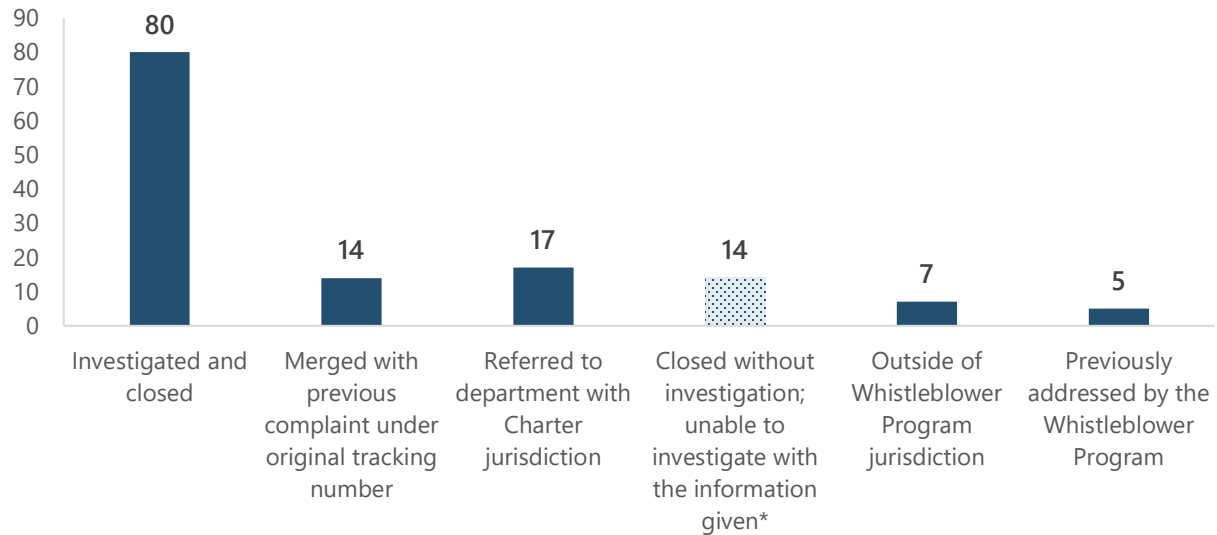
- Complexity of the report’s allegations.
- Number of allegations made in the report.
- Availability of corroborating witnesses and evidence.

The Whistleblower Program uses a co-sourced investigation model to resolve reports and is required to refer certain reports directly to the City Attorney, District Attorney, Ethics Commission, or organizations that are required by law, contract, or policy to resolve them. Whistleblower Program staff leads certain investigations, whereas other reports may be referred to another city department involved in the allegation for investigation and response. By coordinating with other departments, the Whistleblower Program uses the expertise of all involved and leverages resources to ensure all allegations are effectively addressed. Management of the department associated with the report must respond to the Whistleblower Program on any corrective or preventive action taken in response to the report.

DISPOSITION OF CLOSED REPORTS

Exhibit 7 summarizes the disposition of the 137 reports the program closed in Quarter 3. 80 (or 58 percent) reports reached closure after an investigation by the Whistleblower Program.

Exhibit 7: 80 of the 137 reports closed in Quarter 3 were investigated



Note: * Closed without investigation refers to complaints received during the period that contained insufficient information for investigators to meaningfully address through investigation or referral.

The remaining 57 closed reports (42 percent) fall into one of the following categories:

- Merged with previous report. Reporter provided information for a matter that is already under investigation.
- Referred to another department. Reporter was referred to the city department with Charter-granted jurisdiction over the alleged issue. This fiscal year, the Whistleblower Program began tracking outcomes of reports referred to other departments in 2020-21.²
- Closed without investigation. Reporter provided insufficient information to investigate. For example, the department or employee involved was not indicated.
- Outside of jurisdiction. Reporter provided information for a matter that falls outside the Whistleblower Program’s jurisdiction and is within the jurisdiction of a federal, state, or other noncity government agency or is a suggestion or general report about decisions that are within management’s discretion. The Whistleblower Program will advise reporters to file such reports with another fraud hotline program if one is available and appropriate.
- Previously addressed by the Whistleblower Program. Reporter provided information for a matter that was previously addressed by the Whistleblower Program in a separate report.

² The status of reports referred to another department with Charter jurisdiction in fiscal year 2020-21 is summarized in Exhibit 12.

Reports Investigated and Closed, By Department

The Whistleblower Program investigated and closed 80 reports in Quarter 3. The majority (71, or 89 percent) of the investigations occurred at city departments with more than 200 authorized FTE positions. Exhibit 8 summarizes the number of reports investigated and closed at these departments in the last four quarters (April 1, 2021 through March 31, 2022).

Exhibit 8: Reports investigated and closed in the last four quarters, by department

Department	Reports Investigated and Closed in the Last Four Quarters April 1, 2021 – March 31, 2022)	Ratio of the Percentage of Reports Investigated and Closed Divided by Department's Percentage of City Workforce ^a
Public Health	68	1.03
Municipal Transportation	48	0.88
Building Inspection	20	7.57
Public Utilities	20	0.94
Human Services	17	0.85
Public Works	17	1.19
Sheriff	13	1.36
Fire	11	0.67
Controller	6	2.31
Recreation and Park	6	0.68
Emergency Management	5	1.78
Planning	5	2.50
Police	5	0.20
Public Library	5	0.81
Airport	4	0.25
City Administrator	4	0.47
Homelessness	4	2.15
Human Resources	4	1.86
Treasurer and Tax Collector	3	1.63
District Attorney	3	1.12
City Attorney	2	0.73
Assessor-Recorder	1	0.59
Public Defender	1	0.60
Technology	1	0.44
All Others ^b	38	2.88
Total^c	311	

Notes:

^a Per its annual salary ordinances, the City had the following authorized FTE positions:

Fiscal Year	Number of FTE Positions
2021-22	38,549
2020-21	38,268

The ratio assigns value to 2020-21 and 2021-22 FTE totals based on the number of fiscal year quarters included in the ratio.

Ratio Legend	
</= 1	Low
>1 but </= 1.25	Medium
>1.25	High

A lower ratio means there are fewer reports in comparison to total FTEs, while a higher ratio means there are more reports in comparison to total FTEs.

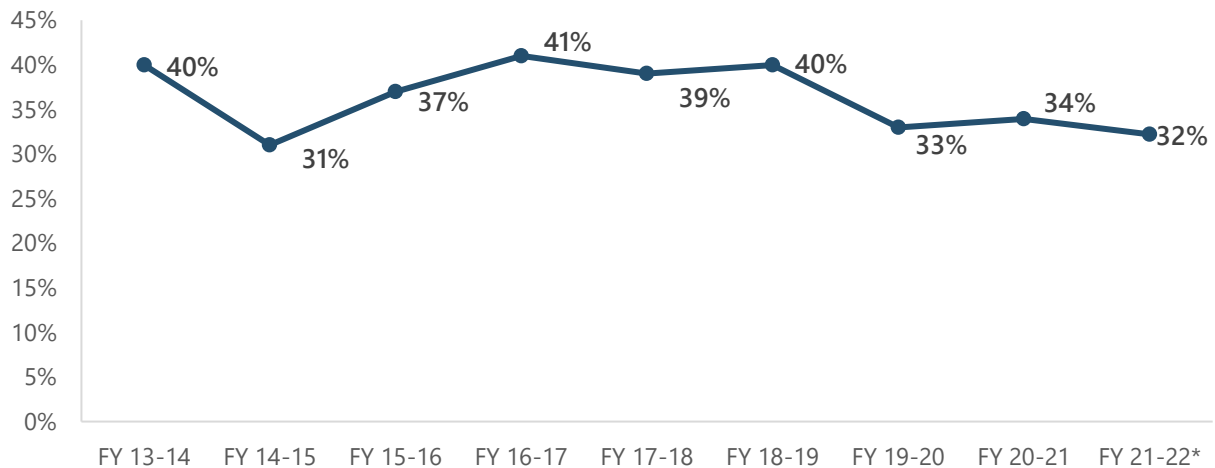
^b Includes reports investigated and closed at departments with fewer than 200 authorized FTE positions. The names of these departments are excluded to protect the confidentiality of those who reported. The City has over 50 departments and divisions, of which 26 have fewer than 200 FTE positions.

^c See Exhibit 7 for the disposition of all reports closed in the fiscal year, including 1) those referred to another department with Charter-granted jurisdiction over the alleged issue, and 2) those closed because they had insufficient information to investigate, were merged with another report, or concerned alleged matters outside the City's jurisdiction.

REPORT OUTCOMES

Of the 80 investigations closed in Quarter 3, 30 38 percent) resulted in a department taking 34 corrective or preventive actions. Exhibit 9 shows the percentage of investigated reports that resulted in a corrective or preventive action each year since fiscal year 2013-14.

Exhibit 9: Percentage of investigated reports that resulted in corrective or preventive action



Note: *Reflects year-to-date percentage through Quarter 3.

The Whistleblower Program receives and tracks information on the corrective and preventive actions departments take in response to reports. Because reports may involve multiple subjects or contain multiple allegations, a report may have multiple outcomes.

Allegations reported to the Whistleblower Program are substantiated at a higher rate and result in more corrective and preventive actions when well-informed reporters make high-quality reports. To make city employees aware of the red flags associated with various types of costly occupational fraud, the Whistleblower Program since 2016 has periodically issued bulletins on potentially fraudulent actions appropriate for investigation.

The Whistleblower Program also hosts a biannual webinar series to promote leading fraud hotline operational practices and effective investigation techniques to jurisdictions throughout the United States. In October 2021 the Whistleblower Program hosted [Why it Matters: Inclusion and Equity in Investigations](#). In May 2022 the Whistleblower Program hosted [Pandemic Response: Where to Focus Your Investigations and Audits](#).

The Department of Human Resources publishes a [discipline checklist](#) to guide departments through the entire disciplinary process. For most offenses, department management is to use a system of progressive discipline under which the employee is given increasingly more severe discipline each time the employee commits an offense. However, management is not bound by progressive discipline in cases of serious offenses. In these cases, no specific warning or prior disciplinary action must precede an employee being separated from service for cause. A progressive discipline process may include counseling (a verbal or written warning), a suspension, and finally, separation for cause.

Exhibit 10 shows the 34 corrective or preventive actions taken by departments in response to 30 investigations in Quarter 3.

Exhibit 10: Report outcomes in Quarter 3

Action Taken	Quarter 1	Quarter 2	Quarter 3	Total
Personnel Action				
<i>Employee Counseled (Verbal/Written Warning)</i>	5	7	9	21
<i>Employee Suspended</i>	-	-	-	-
<i>Employee Terminated</i>	-	-	-	-
<i>Contractor Employee Terminated^a</i>	1	-	-	1
<i>Personnel Action Pending</i>	8	10	9	27
Other Corrective Action^b	2	1	-	3
Policies/Procedures Changed/Reinforced	14	7	16	37
Referred to Audit	-	1	-	1
Total	30	26	34	90

Notes:

^a Employees of city contractors may also be the subject of whistleblower complaints and face personnel actions.

^b Includes corrective actions such as requiring employees to attend training or to submit additional employment paperwork or for departments to develop and administer a performance improvement plan for an employee.

REPORTS REFERRED TO OTHER AGENCIES

The Whistleblower Program must refer some of the reports it receives to other organizations that are required by law, contract, or policy to resolve them. Specifically, certain reports must be sent to the:³

- City department with legal jurisdiction when federal, state, or local law requires another city department to adjudicate the report.
- City department designated in a collective bargaining agreement when the report can be resolved through a grievance mechanism established by the City and a labor organization.
- Appropriate law enforcement agency (federal, state, or local) when the report involves allegations of conduct that may violate criminal law.
- Investigating city department when the report is related to an existing investigation by the District Attorney, City Attorney, or Ethics Commission and when the applicable official or department states in writing that investigation by the Whistleblower Program would substantially impede or delay its own investigation of the matter.
- Ethics Commission and City Attorney when the report alleges conduct that may violate local campaign finance, lobbying, conflict of interest, or governmental ethics laws, regulations, or rules.

The Whistleblower Program informs reporters when their report meets one of these conditions and, when appropriate, ensures the report is addressed by referring it to the agency with jurisdiction or by giving the reporter contact information for the agency with jurisdiction. If a report contains allegations about the agency to which the report normally would be referred, the Whistleblower Program will identify a different venue for the reporter to ensure that the allegations are addressed by an independent agency.

The Whistleblower Program retained and investigated 80 (58 percent) of 137 complaints closed in Quarter 3. Exhibit 11 shows the number of reports the program referred to other agencies in the quarter.

³ San Francisco Campaign and Governmental Conduct Code, Article IV, Section 4.107(b).

Exhibit 11: Reports referred to other City departments and oversight units in Quarter 3^a

Department to Which Report Was Referred	Quarter 1	Quarter 2	Quarter 3	Total	% of Referrals
Human Resources	5	8	7	20	34%
Civil Service	6	6	2	14	24%
Ethics	4	2	4	10	17%
City Attorney	-	2	2	4	7%
District Attorney	2	-	2	4	7%
Police	-	2	1	3	5%
Police Accountability	1	1	-	2	3%
Building Inspection	-	-	1	1	2%
Sunshine Ordinance Task Force	-	-	1	1	2%
Total	18	21	20	59	100%^b

Notes:

^a Of the 80 reports the Whistleblower Program investigated and closed in Quarter 3, 3 contained allegations that resulted in findings that were referred to Ethics and Human Resources for appropriate action. These reports are recorded as investigated and closed but are also included in the number of reports referred to another department with jurisdiction.

^b Percentages may not sum to total due to rounding.

This fiscal year the Whistleblower Program began tracking outcomes related to reports referred to other city departments that asserted jurisdiction over certain allegations filed with the Whistleblower Program in fiscal year 2020-21. The Whistleblower Program must refer these reports to those departments.⁴ Exhibit 12 shows how many of the referred reports were open at the end of Quarter 3.

Exhibit 12: Status of reports referred to other departments last fiscal year, as of this reporting cycle

Department to Which Report Was Referred	Number of Referrals	Number of Referrals Closed ^a	Percentage of Reports Closed
Civil Service	20	19	95%
Human Resources	18	11	61%
Ethics	10	8	80%
District Attorney	7	7	100%
City Attorney	6	4	67%
Police	3	3	100%
Economic and Workforce Development	1	1	100%
Health Service System	1	1	100%
Human Services	1	1	100%
Mayor's Office on Disability	1	1	100%
Police Accountability	1	1	100%
Sheriff	1	1	100%
Total	70	58	83%

Notes:

^a The Whistleblower Program will follow up with departments and update the values in this column quarterly.

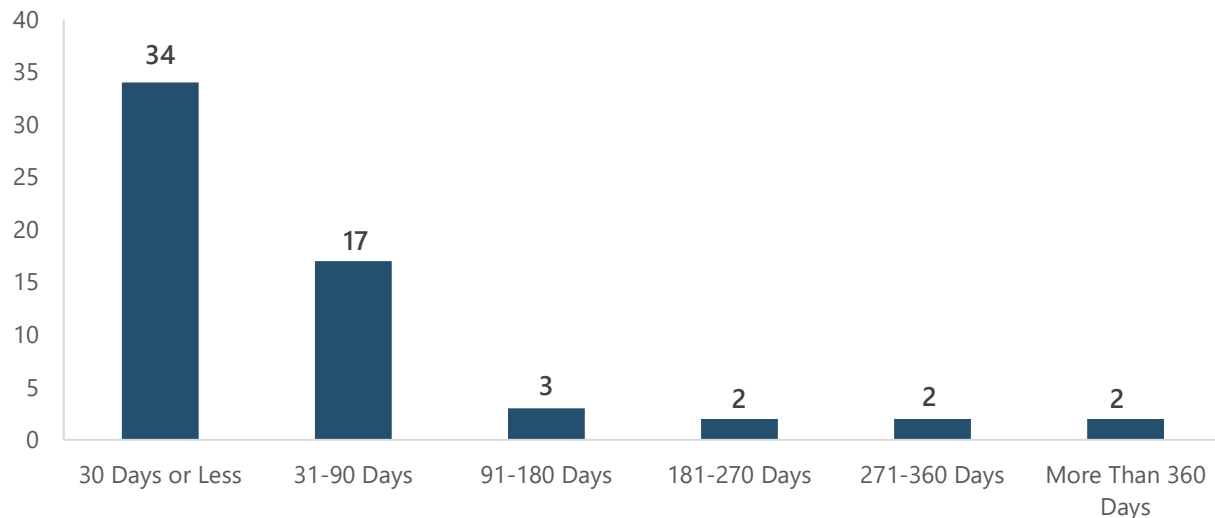
Source: The departments that asserted jurisdiction over allegations from reports referred per San Francisco Campaign and Governmental Conduct Code, Section 4.107(b).

⁴ Per San Francisco Campaign and Governmental Conduct Code, Section 4.107(b).

REPORTS OPEN (EXCLUDING REFERRED COMPLAINTS) ON MARCH 31, 2022

Of the 60 reports open at the end of Quarter 3, 51 (85 percent) were 90 days old or less at that time. Exhibit 13 shows the age of reports open on March 31, 2022.

Exhibit 13: 51 of the 60 reports open on March 31st were 90 days old or less



The Whistleblower Program examines the factors that delay report closure and, in some cases, works with the leaders of departments to address these issues. The program has focused on training departmental staff responsible for investigating reports to standardize the investigation processes they use, increase their investigative skillsets, and ensure they have a uniform understanding of the responsibilities entrusted to them to carry out Whistleblower Program investigations.

WHISTLEBLOWER RETALIATION

Retaliation against whistleblowers is illegal. Protections exist for city officers and employees who in good faith file, or attempt to file, reports with the Whistleblower Program, Ethics Commission, District Attorney, City Attorney, or their own department, or who provide any information in connection with or otherwise cooperate with a whistleblower investigation.⁵

Whistleblower protections also apply to city contractors and their employees who file reports with any supervisor in a city department or who provide any information in connection with or otherwise cooperate with a whistleblower investigation.⁶

The Ethics Commission is the city department responsible for investigating reports alleging whistleblower retaliation. Exhibit 14 summarizes the results reported by the Ethics Commission, including the ten retaliation reports (four related to the Whistleblower Program) that were open on March 31, 2022, and the number of retaliation reports the Ethics Commission received, closed, and sustained in Quarter 3.

Exhibit 14: Whistleblower retaliation reports the Ethics Commission received and closed in Quarter 3

Retaliation Reports With the Ethics Commission	All Retaliation Reports	Retaliation Reports Related to the Whistleblower Program
Open on January 1, 2022	7	3
Received	5	2
Closed	2	1
Sustained (of those closed)	-	-
Open on March 31, 2022	10	4

Source: Ethics Commission

To establish retaliation, a reporter must demonstrate by a preponderance of the evidence that the reporter's engagement in a protected activity was a substantial motivating factor for an adverse action that a city officer or employee took against the reporter. Reports of retaliation must be filed within two years after the date of the alleged retaliation.⁷

The Ethics Commission's [website](#) has more information on whistleblower protections, retaliation investigations, and available remedies in the event retaliation occurred.

⁵ San Francisco Campaign and Governmental Conduct Code, Article IV, Section 4.115(a).

⁶ Ibid., Section 4.117(a).

⁷ Ibid., Section 4.115(b)(i).

PUBLIC INTEGRITY TIP LINE

In response to the federal criminal charges filed against former city officials and others, which were initially made public in January 2020, the City Attorney is leading the investigation into alleged wrongdoing outlined in criminal charges brought by the U.S. Attorney’s Office. In February 2020 the Controller and City Attorney opened a Public Integrity Tip Line (Tip Line) to gather any information the line might receive related to the investigation. Also, the Controller, in cooperation with the City Attorney, instituted additional reviews of city contracts, purchase orders, and grants to identify any red flags or process failures.

Exhibit 15 lists the reports resulting from the nine public integrity reviews or audits and the one 12-month update on the implementation status of recommendations the Controller has issued to date.

Exhibit 15: The Controller’s public integrity reports issued as of May 2022

Date Issued	Report Title
6/29/20	Preliminary Assessment of San Francisco Public Works Contracting
9/24/20	Preliminary Assessment: Gifts to Departments Through Non-City Organizations Lack Transparency and Create “Pay-to-Play” Risk
11/5/20	Preliminary Assessment: San Francisco’s Debarment Process
1/11/21	Preliminary Assessment: Ethical Standards for Contract Award Processes of the Airport Commission and Other Commissions and Boards
4/14/21	Preliminary Assessment: Refuse Rate-Setting Process Lacks Transparency and Timely Safeguards
8/4/21	12-Month Update: Implementation Status of Recommendations From Assessments to Date
9/16/21	Preliminary Assessment: Department of Building Inspection’s Permitting and Inspections Process
12/9/21	Audit: San Francisco Public Utilities Commission’s Social Impact Partnership Program
4/8/22	Preliminary Assessment: San Francisco Department of the Environment’s Relationship With Recology and Lack of Compliance With Ethics Rules
5/16/22	Preliminary Assessment: Refuse Rate-Setting Process – Update Based on Additional Reviews and Meetings With Recology

Preliminary assessments underway will review the procurement and award of the landfill disposal agreement, procurement processes at the San Francisco Public Utilities Commission and citywide ethics rules and procedures. These public integrity preliminary assessments will include internal control reviews, when applicable, and best practice recommendations.

The Tip Line, which is staffed by Whistleblower Program investigators, has received 77 tips since its inception, 4 of which came in fiscal year 2021-22. Tips are carefully reviewed to determine whether the information they contain can be used for the joint public corruption investigation or is more appropriate for another government agency to address. Exhibit 16 summarizes the dispositions of the tips received by the Tip Line in the last three fiscal years.

Exhibit 16: Dispositon of Public Integrity Tip Line tips, by fiscal year

Department	Number of Tips			
	FY 2019-20	FY 2020-21	FY 2021-22*	Total
Retained by Whistleblower Program	19	10	2	31
Closed after initial review	-	3	1	4
Referred to:				
City Attorney	33	4	1	38
Ethics Commission	2	-	-	2
District Attorney	1	-	-	1
Office of Labor Standards Enforcement	1	-	-	1
Total	56	17	4	77

Note: *Year-to-date

Investigation Results

Investigations highlighted in this section resulted in a department taking corrective or preventive action. The diversity of these allegations and resolutions demonstrates the breadth and complexity of the Whistleblower Program’s investigative work. A complete list of reports published in previous reporting periods can be found on the [Whistleblower Program Summary Reports](#) page.

SUMMARY OF ALL INVESTIGATIONS RESULTING IN CORRECTIVE OR PREVENTIVE ACTION IN QUARTER 3

The investigations highlighted in this section addressed allegations that resulted in a department taking corrective or preventive action in Quarter 3.⁸

Allegation	Resolution Based on Investigation
Allegations Fully Substantiated	
An employee and their manager inappropriately did not report damage to a city vehicle driven by the employee.	The investigation substantiated the allegation. Corrective action is pending.
An employee uses their city e-mail account for personal purposes.	The investigation substantiated the allegation. The department issued a written warning and reissued the relevant policies to the employee.
An employee does not wear their face mask. (3 separate reports.)	The investigation substantiated the allegation. The department reminded the employee of the COVID-19 safety protocols.
	The investigation substantiated the allegation. The department reminded the employee of the COVID-19 safety protocols and the requirement to wear face masks while at the worksite.
	The investigation substantiated the allegation. Department leadership counseled the employee on masking protocols and, because the department had received previous complaints about the employee not masking, the employee was given a final warning to follow health and safety protocols to prevent further disciplinary action.
A city program displayed inaccurate information on its website.	The investigation substantiated that the website contained outdated information. The department updated the information.

⁸ The results of these investigations are separate from and in addition to the recommendations in the public integrity review reports issued thus far (and linked to on the preceding page).

Allegation	Resolution Based on Investigation
An employee shouted at a member of the public.	The investigation substantiated that the employee was discourteous to a member of the public. The employee was counseled on the relevant policies on treatment of members of the public.
An employee had unreported secondary employment.	<p>The investigation substantiated that the employee's additional employment paperwork was outdated. The investigation found that the employee attempted to fill out the paperwork but had difficulty completing it.</p> <p>The department reminded the employee that completed paperwork is required and instructed them to complete it by a specified deadline or cease the secondary employment.</p>
An employee misuses city resources by driving their child to school using a city vehicle while on city time.	The investigation substantiated that the employee violated multiple city policies concerning time and attendance, use of city vehicles, and use of city property in general. The department issued a cease-and-desist order directing the employee not to drive a city vehicle to the school. Additional corrective action is pending.
A manager rarely shows up for work and fails to support and respond to subordinates.	The investigation substantiated the allegation and found that the manager's supervisor failed to address the manager's poor behavior. The supervisor reported that they are unaware of the manager's work schedule. The department directed the supervisor to monitor staff time and attendance and will counsel the manager and their supervisor on managerial performance.
A manager inappropriately gave certain employees recognition awards although the award criteria were unclear and senior management had not approved the recognition.	The investigation substantiated the allegation. The manager issued awards that departmental leadership had not sanctioned. The employee was counseled on the procedures for recognizing staff, including the department's years of service awards.
An unaddressed maintenance issue at a site operated by a city contractor creates a safety hazard.	The investigation substantiated the allegation. The department addressed the maintenance issue and requested that the city contractor assign an employee to monitor the site for any future issues.

Allegation	Resolution Based on Investigation
<p>An employee has undisclosed additional employment at a company that has a contract with the City. The employee works for the company while receiving workers' compensation benefits from the City.</p>	<p>The investigation substantiated that the employee has undisclosed additional employment but did not substantiate that the company for which the employee works has a city contract. The department intends to inform the employee of city policy and procedures for additional employment requests and remind them of the department's Statement of Incompatible Activities upon their return from leave.</p> <p>The allegation concerning workers' compensation falsification was referred to the Department of Human Resources, which administers workers' compensation benefits for city employees.</p>
<p>An employee inappropriately directed verbal threats toward coworkers.</p>	<p>The investigation substantiated the allegation. The department issued a written warning and reissued the City's policy on treatment of coworkers to the employee.</p>
<p>Allegations Partially Substantiated</p>	
<p>An employee has undeclared additional employment that may pose a conflict of interest.</p>	<p>The investigation did not substantiate that the employee's secondary employment conflicts with their city employment. However, it did substantiate that the employee does not have current additional employment paperwork on file. The department is working with the employee to complete the relevant paperwork.</p>
<p>An employee used a city vehicle registered to someone else without proper documentation and approval.</p>	<p>The investigation partially substantiated the allegation as it found that the employee's supervisor instructed the employee to drive the vehicle to ensure its battery would remain charged. The department reissued the City's vehicle use policy to the supervisor.</p>
<p>A city contractor allows its employees to use contract funds for personal use and personal profit. One of the contractor's employees did not provide proper documentation during an audit.</p>	<p>The investigation substantiated that a city contractor employee did not retain proper documentation but did not substantiate that the city contractor used city funds for personal purposes.</p> <p>The investigation found that the audit referred to by the reporter addressed the documentation issue. Further, the contractor had agreed to implement internal controls to better manage expenses purchased with city funds.</p>

Allegation	Resolution Based on Investigation
<p>A manager falsifies their time and attendance records, instructs subordinates to work beyond the scope of their duties, makes inappropriate comments, and only allows certain employees to work from home.</p>	<p>The investigation partially substantiated the allegations. The investigation did not substantiate that the manager falsifies their time and attendance records. The investigation found that when management offers flexibility in telecommuting schedules, employees can perceive that they are being treated unfairly if they believe they are not being offered the same options as a coworker has received. The investigation also partially substantiated that some employees in the unit sometimes handle tasks that may not be within their job description due to the unit's unusual structure.</p> <p>The department added staff to better ensure employees do not work beyond the scope of their duties. Additional corrective action is pending.</p>
Allegations Not Substantiated but That Led to Preventive or Corrective Actions	
<p>An employee failed to obey traffic signals.</p>	<p>The investigation did not substantiate the allegation. However, the department reinforced relevant policies by enrolling the employee in a vehicle safety training course.</p>
<p>An employee provided poor customer service to a client.</p>	<p>The investigation did not substantiate the allegation. However, the department will provide the employee with additional training on the relevant policies and best practices for providing customer service.</p>
<p>An employee steals office supplies and falsifies their time and attendance records.</p>	<p>The investigation did not substantiate the allegations. However, the investigation determined that the employee's manager was not adequately supervising their employees' time reporting. The department is coaching the manager on improving their supervisory skills.</p>
<p>Management allows employees to engage in misconduct, to work outside the scope of their job classifications, to report for work with COVID-19, to work near others without wearing face masks, and to violate to various department and city policies.</p> <p>Another employee misuses city vehicles for personal purposes, falsifies their time and attendance records, and manipulates overtime schedules.</p>	<p>The investigation did not substantiate the allegations. However, the department implemented new controls around scheduling overtime and reminded employees of social distancing procedures.</p>
<p>An employee falsifies their time and attendance records and wastefully manages projects.</p>	<p>The investigation did not substantiate the allegations. However, the investigation found that the employee had unreported additional employment and did not have a Statement of Economic Interest (Form 700) on record. The department required the employee to submit a request for additional employment and complete a Form 700.</p>

Allegation	Resolution Based on Investigation
<p>Management allows only some employees to telecommute, and employees report to their work location despite being ill.</p>	<p>The investigation did not substantiate the allegations. However, the department reinforced city policy by informing employees of their need to complete the City's health check application before reporting to work.</p>
<p>An employee forged another employee's unique identifier onto a document without their consent. Further, the employee is inappropriately retaliating against other employees for reporting the alleged forgery.</p>	<p>The investigation did not substantiate the allegations. However, the investigation identified a control weakness, which the department will address through an upcoming change of its policies and procedures. The allegation concerning retaliation was referred to the Ethics Commission.</p>
<p>An employee falsely reports overtime hours on their timesheets.</p>	<p>The investigation did not substantiate the allegation. However, the investigation found that the employee's manager failed to adequately supervise the employee's time and attendance reporting. The manager was counseled on the requirement to monitor subordinates' time and attendance reporting and was directed to restrict the employee's overtime.</p>
<p>An employee constantly uses their personal cell phone while on city time.</p>	<p>The investigation did not substantiate the allegation. However, the department has begun to monitor and observe staff to prevent misuse of city time.</p>
<p>A manager creates a hostile work environment by overworking employees and does not follow COVID-19 safety protocols.</p>	<p>The investigation did not substantiate the allegations. However, the department reissued relevant COVID-19 policies to the division.</p>
<p>A manager instructed their employee to hire a specific candidate for a position.</p> <p>An employee instructed a city contractor to hire a specific candidate for a position, hired their family member as a consultant, and was not qualified for their position despite meeting minimum qualifications.</p>	<p>The investigation did not substantiate that a manager instructed their employee to hire a specific candidate. It also did not substantiate that an employee instructed a city contractor to hire a specific candidate for a position but did find there was a perception among staff of favoritism and unfairness in the unit's hiring. Therefore, the department reissued guidance on its Statement of Incompatible Activities, conflict of interests, and perceptions of favoritism and unfairness in the recruitment process to the subjects. It also informed them that the department's senior management will make future employment decisions regarding the city employee who was the specific candidate.</p> <p>The allegation regarding the employee hiring a family member and not meeting qualifications for their position were referred to the departments with Charter authority in these matters.</p>
<p>An employee acted aggressively when responding to a service call.</p>	<p>The investigation did not substantiate the allegation, finding that the employee adhered to department procedures. However, the department reminded the employee of the relevant procedures.</p>

File a Whistleblower Report

Report the misuse of funds, waste, or mismanagement in City and County of San Francisco programs and operations by contacting the Whistleblower Program.

Internet: <http://sfcontroller.org/whistleblower-program>

Telephone: 311 or, if outside the 415 area code, 415-701-2311

OR download a [report form](#) and return it via:

E-Mail: whistleblower@sfgov.org

Mail: Office of the Controller
Attention: Whistleblower Program
1 Dr. Carlton B. Goodlett Place, Room 316
San Francisco, CA 94102

Fax: 415-554-7856

**INVESTIGATIONS ARE CONFIDENTIAL.
REPORTERS MAY REMAIN ANONYMOUS.**

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File a Public Integrity Tip

Report public integrity tips by e-mail at publicintegrity@sfgov.org or by phone at (415) 554-7657. All tips may be submitted anonymously and will remain confidential.