DATE: May 14, 2015
TO: Finance and Government Operations Committee
FROM: Orry P. Korb, County Counsel
SUBJECT: Semi-Annual Report on the 24/7 Whistleblower Program

RECOMMENDED ACTION
Receive semi-annual report from the Office of the County Counsel relating to the status of the 24/7 Whistleblower Program, including report regarding status of complaints filed since January 1, 2013.

FISCAL IMPLICATIONS
There is no impact to the General Fund as a result of this action.

REASONS FOR RECOMMENDATION
Section 3.50.4 of the Board of Supervisors’ Policy Manual provides that the Office of the County Counsel shall be responsible with regard to the 24/7 Whistleblower Program (“Program”) for reporting at least twice per year to the Board the number of complaints received, a synopsis of each complaint, investigative findings and disposition.

An analysis of the complaints received and handled during the reporting period October 16, 2014 to April 15, 2015 is included in this report. In addition, the FGOC asked the Office of the County Counsel to review the status of whistleblower complaints filed since January 1, 2013.

Update for this Reporting Period (October 16, 2014 – April 15, 2015)
During the current reporting period from October 16, 2014 to April 15, 2015, County Counsel received 52 contacts through the Whistleblower Program. Thirty-five were complaints concerning personnel matters, including hiring, employee interactions with co-workers, and assorted other concerns; 12 were non-personnel complaints; and five contacts were determined not to be County whistleblower matters because the complaint concerned entities other than the County, the complaint failed to provide sufficient information to conduct an investigation, or the contact did not concerns matters within the scope of the County’s whistleblower program.
The 52 contacts received during this reporting period constituted a 63 percent increase over the number received during last six-month reporting period (33). The number of complaints related to personnel matters received in this reporting period (35) was more than double the number received during the previous reporting period (17).

During this reporting period, County Counsel continued working with Employee Services Agency (ESA) to investigate and close pending complaints concerning personnel matters and to address new complaints. New personnel matters were referred to the County agencies and departments where the personnel issue arose, except where the allegations required investigation by someone outside of the department or agency.

The attachment to this report briefly describes the complaints that were received during this reporting period, as well as the status of those complaints. Of the 47 valid whistleblower matters, 23 were closed.

**Review of complaints received by the Whistleblower Program since 2013**

At its November 13, 2014 meeting, the FGOC asked County Counsel to review the status of complaints that have been filed since 2013. For the purpose of the review, we examined contacts from January 1, 2013 through October 15, 2014. Contacts after that date fall into the current reporting period and are included in the analysis above. Although efforts have been made since the onset of the program to monitor the status of complaints and to resolve pending investigations, this was the first comprehensive review conducted by the Office.

The County’s Whistleblower Program received 161 complaints from January 1, 2013 to October 15, 2014. Of these, 123 were valid whistleblower complaints. The remaining 38 did not fall within the purview of the program. Of the 123 valid whistleblower complaints, 93 were investigated and closed. Twenty of the 93 were partially or fully sustained, and 73 were not sustained. Where a complaint was partially or fully sustained, corrective action was taken to address the issue. The 123 matters encompassed a variety of issues: 103 were complaints concerning personnel matters, including hiring, employee interactions with co-workers, and assorted other concerns; 20 were non-personnel complaints.

As of the preparation date of this report, the investigation had not been completed in 30 cases. Some involved complex issues that were not able to be resolved in a shorter time period. In other cases, resource issues—including changes in assignments—contributed to the delay in the investigations or to the delay in the initial assignment by this Office.

**CHILD IMPACT**

The recommended action will have no/neutral impact on children and youth.

**SENIOR IMPACT**

The recommended action will have no/neutral impact on seniors.

**SUSTAINABILITY IMPLICATIONS**

The recommended action will have no/neutral sustainability implications.
BACKGROUND

At its April 13, 2010 meeting, the Board adopted Policy Resolution No. 2010-211 adding Section 3.50 to the Board of Supervisors’ Policy Manual directing the establishment of a process for the receipt, acceptance, investigation, documentation and monitoring of reports of improper government activity in accordance with County of Santa Clara Ordinance Code, Division A25, sections A25-750 to A25-753. On April 27, 2010, the Board adopted an amendment to Chapter VII of Division A25 to establish a central intake system through the Office of the County Counsel to receive, accept, screen, document, analyze, investigate and track whistleblower complaints.

County Counsel implemented the Program, assigning responsibility to an Assistant County Counsel and specified staff members to develop a telephone-based system to receive and process whistleblower complaints along with an online system developed in cooperation with the Information Services Department. An anonymous telephone reporting service was established allowing callers to speak with specified staff members during business hours and to leave confidential messages at a voicemail address during non-business hours, accessible only by members of the County Counsel team. A web-based reporting system was created, which includes a form to be completed and submitted online by complainants and which is then automatically directed to a specified member of the team. Finally, an internal protocol for handling complaints was enacted, calling for all complaints to be forwarded to the Assistant County Counsel for screening and referral for investigation, for records to be retained confidentially in County Counsel’s document system, for maintenance of a record of complaints handled, and for coordination with ESA where many of the complaints are investigated.

ATTACHMENTS:

- Whistleblower Program Report - October 16, 2014 - April 15, 2015  (PDF)