DATE: January 14, 2016
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. (Held from December 10, 2015, Finance and Government Operations Committee meeting, Item No. 11)

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 April 16, 2015 to October 15, 2015 is attached to this report, as well as a status report on the complaints received between January 1, 2013 and April 15, 2015.

Update for this Reporting Period (April 16, 2015 to October 15, 2015)
During the current reporting period from April 16, 2015 to October 15, 2015, County Counsel received 58 contacts through the whistleblower program. Thirty-one were complaints concerning personnel matters, including hiring, employee interactions with co-workers, and assorted other concerns; 10 were non-personnel complaints; and 17 contacts were determined not to be County whistleblower matters because the complaint concerned entities other than the County, or the complaint failed to provide sufficient information to conduct an investigation, or the contact did not concern matters within the scope of the County’s whistleblower program.
The 58 contacts received during this reporting period constituted a slight increase over the number received during last six-month reporting period (52). The number of complaints related to personnel matters received in this reporting period (31) was less than the number received during the previous reporting period (35).

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

Attachment A to this transmittal briefly describes the complaints that were received during this reporting period, as well as the status of those complaints. Of the 41 valid Whistleblower Program matters, 6 were closed. The County closed twenty-eight additional complaints that had been received during prior reporting periods.

**Status of Complaints Received by the Whistleblower Program Since 2013**

Attachment B to this transmittal provides an update on the status of contacts received between January 1, 2013 and April 15, 2015. Contacts after that date fall into the current reporting period and are included in the analysis above.

The Whistleblower Program received 211 contacts from January 1, 2013 to April 15, 2015. Of these, 167 were valid Whistleblower Program complaints. The remaining 44 did not fall within the purview of the program. Of the 167 valid Whistleblower Program complaints, 121 were investigated and closed. Twenty-five of the 121 were partially or fully sustained, and 96 were not sustained. Where a complaint was partially or fully sustained, corrective action was taken to address the issue. The 167 matters encompassed a variety of issues: 135 were complaints concerning personnel matters, including hiring, employee interactions with co-workers, and assorted other concerns; 32 were non-personnel complaints. As of the date of preparation of this report, the investigation had not been completed in 46 cases.

**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 A-25 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 the Employee Services Agency (ESA) where many of the complaints are investigated.

**CONSEQUENCES OF NEGATIVE ACTION**

The Committee will not receive the semi-annual report of the 24/7 Whistleblower Program.

**ATTACHMENTS:**

- Whistleblower Program Report - April 16, 2015 - October 15, 2015  (PDF)
- Whistleblower Program Status Report - January 1, 2013 to April 15, 2015  (PDF)

**HISTORY:**

<table>
<thead>
<tr>
<th>Date</th>
<th>Committee/Action</th>
<th>Status</th>
<th>Next:</th>
</tr>
</thead>
<tbody>
<tr>
<td>11/23/15</td>
<td>Finance and Government Operations Committee</td>
<td>HELD</td>
<td></td>
</tr>
<tr>
<td>12/10/15</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12/10/15</td>
<td>Finance and Government Operations Committee</td>
<td>HELD</td>
<td></td>
</tr>
<tr>
<td>01/14/16</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>