DATE: November 8, 2012

TO: Finance and Government Operations Committee

FROM: Lori E. Pegg, Acting County Counsel

SUBJECT: Semi-Annual Report on the 24/7 Whistleblower Program

RECOMMENDED ACTION
Accept semi-annual report from the Office of the County Counsel relating to the status of the 24/7 Whistleblower Program established by the Board on April 13, 2010 for the reporting and investigation of improper government activity.

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 for the 24/7 Whistleblower Program (“Program”) and 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 8, 2012 to October 15, 2012 is attached to this transmittal.

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 including a form to be completed and submitted online by complainants and then automatically directed by email 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.

Prior to this reporting period, 227 whistleblower complaints were received, which is an average of about 57 complaints per 6-month period. During the present reporting period, which started April 8, 2012, and ended October 15, 2012, County Counsel received 40 contacts, 28 (or 70%) of which were complaints concerning personnel matters, one was a complaint alleging a financial impropriety that was referred to the Board’s Management Auditor, Harvey M. Rose Associates, LLC, four were non-personnel whistleblower complaints, and seven were determined not to be County whistleblower matters either because the complaint concerned entities other than the County, the complaints failed to provide sufficient information to conduct an investigation, or because the contact did not constitute a complaint.

This reporting period evidenced a 30 percent reduction in the number of complaints received as compared with the last reporting period. However, one continuing trend in the Program is that the majority of the complaints concern personnel matters, often involving employees complaining about co-workers or supervisors.

During this reporting period, County Counsel continued working with ESA to investigate and close pending complaints concerning personnel matters and to quickly address new complaints. For example, with ESA consent, County Counsel now coordinates the investigations of referrals made directly to County agencies and departments. ESA has also closed 12 complaints that were received during prior reporting periods.

**CONSEQUENCES OF NEGATIVE ACTION**

The semi-annual report of the 24/7 Whistleblower Program will not be accepted.

**ATTACHMENTS:**

- Whistleblower Program Report - April 8, 2012 - October 15, 2012 (PDF)