DATE: November 14, 2013

TO: Finance and Government Operations Committee

FROM: Orry P. Korb, 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 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 May 1, 2013 to October 31, 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.
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.

Before this reporting period, the County had received 314 complaints through the whistleblower program since its inception, which is an average of about 52 complaints per 6-month period.

**Update for this Reporting Period (May 1, 2013 – October 31, 2013)**

During the current reporting period from May 1, 2013 to October 31, 2013, County Counsel received 55 contacts through the whistleblower program. Forty-six (84%) were complaints concerning personnel matters, including hiring, employee interactions with co-workers, and other personnel-related matters; six were non-personnel complaints; and three contacts were determined not to be County whistleblower matters, because the complaint concerned entities other than the County, and/or the complaint failed to provide sufficient information to conduct an investigation, and/or the contact did not constitute a complaint within the scope of the County’s whistleblower program.

This reporting period evidenced a fifteen-percent increase in the number of complaints received as compared with the last reporting period. A 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 address new complaints. With ESA consent, County Counsel continued to refer certain personnel complaints directly to County agencies and departments where the personnel issue arose.

The attachment to this transmittal briefly describes the complaints that were received during this reporting period, as well as the investigation-status and/or file-closure status of those
complaints. In addition to completing investigations and closing files relating to some complaints made during the reporting period, the County closed seven additional complaints that had been received during prior reporting periods.

Finally, beginning in October 2013, two members of County Counsel’s office began participating in a new webinar/teleconference forum that encourages discussion and collaboration among public entities throughout the nation regarding best practices for fraud-reporting hotlines and whistleblower programs. The Office of the Controller for the City and County of San Francisco, which has operated a whistleblower program since 2004, is coordinating this collaborative information-exchange. To date, participants have included cities and counties from throughout California, as well as from Arizona, Florida, Illinois, Minnesota, North Carolina, Texas, Virginia, Wisconsin, and Ontario, Canada. On October 3, 2013, the topic was “Introduction to the Fraud Hotline Teleconference Series.” And on October 24, 2013, the topic was “Optimizing Hotline Operations: Doing More with Less,” with a presentation by the Inspector General for the United States General Services Administration. County Counsel intends to evaluate information and best practices from other jurisdictions and, if appropriate, recommend modifications to the County’s policies and practices.

CONSEQUENCES OF NEGATIVE ACTION

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

ATTACHMENTS:

- Whistleblower Program Report - May 1, 2013 - October 31, 2013 (PDF)