DATE: November 13, 2014

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 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 April 16, 2014 to October 15, 2014 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 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 (ISD). 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.

**Update for this Reporting Period (April 16, 2014 – October 15, 2014)**

During the current reporting period from April 16, 2014 to October 15, 2014, County Counsel received 33 contacts through the Whistleblower Program. Seventeen were complaints concerning personnel matters, including hiring, employee interactions with co-workers, and other personnel-related matters; seven were non-personnel complaints; and nine contacts were determined not to be County whistleblower matters, because the complaints concerned entities other than the County or the complaint failed to provide sufficient information to conduct an investigation or the contact did not constitute a complaint within the scope of the County’s Whistleblower Program. Where the complainant did not provide sufficient information, the County Counsel’s office attempted to contact the complainant to elicit more information prior to closing the matter.

This reporting period evidenced a 6 percent decrease in the number of complaints received as compared with the last reporting period (November 1, 2013 to April 15, 2014). 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. County Counsel also referred certain personnel complaints directly to County agencies and departments where the issues arose. Two complaints were resolved directly by the departments complained about at the time that the Whistleblower investigation was being initiated, and the matters were closed.

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. Of the 24 personnel and non-personnel complaints, nine were closed. The County closed five additional complaints that had been 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 16, 2014 - October 15, 2014  (PDF)