



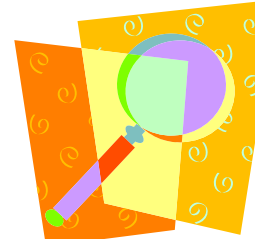
Whistleblower Program 2005-06 Mid-Year Report

January 20, 2006

The City's Whistleblower Program Is Working

The Whistleblower Program is a resource available for City employees, contractors or vendors, and City residents who want to come forward with information about acts of waste, fraud or abuse. Such acts impact the resources of City government and its agencies. Violations may occur through an unintentional act or by a deliberate action. Regardless of intent, misuse of City resources or misconduct should not be tolerated.

Since August 2004, we have investigated complaints or have referred them to other appropriate City agencies for investigation as required. When we refer, we continue to confer and track the investigation until resolution. As a result of complaints to the program, City employees have been disciplined, persons defrauding City government have been prosecuted; waste has been controlled; audits have been performed; and improper activities have been identified and dealt with. In many cases, investigations have resulted in a determination that no actual violation exists and the complaint is not sustained. If we have contact information for complainants, they are informed in general of what we found.



Whistleblower Hotline
554-CITY (554-2489)

Hotline Hours
M, W, Th, F 9:00 – 5:00
T 10:30 – 5:00
(message available 24/7)

Online
www.sfgov.org/whistleblower

E-mail
whistleblower@sfgov.org

Postal mail
Whistleblower Program
c/o Controller
City Hall – Room 316
1 Dr. Carlton B. Goodlett Pl.
San Francisco, CA 94102



For Your Info

Below are examples of the 83 allegations received by the Whistleblower Program from 7/1/05 through 12/31/05, a summary of our investigations and their results.

Complaint Allegation

IMPROPER ACCOUNTING
Complainant alleged the Treasure Island Development Agency (TIDA), was not appropriately accounting for its revenues and expenditures

IMPROPER ACTIVITY BY CITY EMPLOYEES
Complainant called to report two Recreation & Park Dept. staff were drinking beer on work time at a RecPark facility.

Investigation and Result

A Controller's audit concluded that TIDA has been poorly managed with regard to its financial practices, staffing, monitoring of interim subleases, expenditures, and employee payroll and reimbursements.

The audit recommends 35 improvements to management of TIDA activities.

Investigation determined complaint had merit. The employees did have a beer with their lunch inside a park building. The department has an Alcohol Free Workplace policy.

The department disciplined both employees.

Take a number

Complaints are assigned a four-digit tracking number so complainants can later give additional information or track general complaint results. If you file a complaint on the Hotline or website, make a note of your tracking number. If you submit a complaint by email, we will give you the number by return email. No follow-up information will be given without the tracking number.

FRAUD

Complainant alleged welfare fraud in the receipt of benefits to which recipient was not entitled. Subject is receiving aid payments for providing in-home care, however adults in home are actually ineligible non-disabled working adults and fraudulent paperwork submitted.

The Fraud Unit at the Dept. of Human Services investigated and determined the complaint had merit.

Case was referred to the District Attorney's Office for prosecution.

Welfare fraud complaints can be reported directly to the Dept. of Human Services Fraud Early Detection Unit at 503-4900.

FRAUD

Complainant alleged welfare fraud in the receipt of benefits to which recipient was not entitled. Subject is receiving aid payments for children with whom she is not living.

The Fraud Unit at the Dept. of Human Services investigated and determined the complaint had merit.

Monies are being recovered by deductions from welfare payments currently being received by the subject from Sacramento County.

HIRING VIOLATION

Complainant alleged two Muni staff were about to be promoted by a "sneak through" promotion process for promotions that had not been posted.

Investigation determined both identified staff positions were actually reclassifications that had taken over a year to process as positions are widely varied in duties and it took time to determine the appropriate classification. The reclassification process is conducted by the department and Dept. of Human Resources with detailed paperwork requiring multiple approvals.

Complaint not sustained.

EMPLOYEE MISCONDUCT

An Airport employee complainant made multiple allegations about another employee's falsification of records, misuse of City equipment, improper conduct, and improper management activities.

Investigation revealed complainant's issues had already received thorough investigation by his department. A couple of his allegations had been found to have merit and procedures had been changed. Other issues in his complaint were included in grievances he had filed with his union. The remainder of his complaint was not found to have merit by the department.

Whistleblower Program staff reviewed the department's investigation, found it complete and closed the complaint. We have no jurisdiction over grievance matters and did not address those issues.

IMPROPER ACTIVITY BY CITY OFFICIALS

Complainant alleged that two elected City officials owned property that had not been reassessed since purchase or improvement.

Investigation determined that in one case the property was in fact reassessed after purchase. In the other, improvements are still in progress and reassessment will follow that completion.

Complaint not sustained.

Complaints Received By

Email	9
Letter	3
Phone-In	44
Walk-in	4
<u>WEB</u>	<u>23</u>
Total:	83

Total number of contacts since program inception: 317

CONFLICT OF INTEREST

Complainant alleged a conflict of interest in that a member of the Health Commission works for an entity that has a major contract with the Department of Public Health since the Commission is in charge of renewing contracts.

Investigation found the Commissioner works for a non-profit contractor and the Campaign and Government Code specifically exempts employees of non-profits from the provision prohibiting those who contract with the City from serving on the boards or commissions that deal with their contracts. (Section 3.222) Commissioners are advised by the City Attorney regarding appropriate recusal.

Complaint not sustained.

INAPPROPRIATE USE OF A CITY RESOURCE

Complainant alleged the Legion of Honor Museum had violated the terms of appropriate use of the Joseph Guarnerius del Gesu Violin willed to the Legion of Honor by Jascha Heifetz. The will stated the museum is to have the Violin and it is to be played "on special occasions by worthy performers." Complainant stated the museum has given the Violin to the San Francisco Symphony concertmaster for long-term and renewable contracts; that it is no longer available to be viewed at the museum or played there on special occasions.

Consultation with the City Attorney's Office who reviewed relevant City and Probate Court records determined the use of the Violin is consistent with the terms of the Heifetz will as confirmed by an order of the Superior Court. The Court determined that more frequent use may improve the condition of the Violin; that the Violin would be scheduled to be returned for public display each summer; and confirmed the Museum's authority to enter into the arrangement with the Symphony. Hence the "arrangement is either within the scope of the original trust or constitutes a reasonable accommodation necessary to enhance the public benefit of the Violin and to preserve the Violin."

Complaint not sustained.

If you are interested in viewing the Violin when it is on exhibition or learning more about upcoming Symphony performances call (415) 750-3669.

This is just a small sample of whistleblower complaints that have been investigated and brought to resolution. The program has also handled numerous non-whistleblower complaints during the first and second quarter of 2005-06. Here are a few examples.

Complaint Allegation

Complainant reported a MUNI driver on the 24-Divisadero line was verbally abusive and threatened to hit complainant with the bus. Complainant also alleged that discrimination based on perceived sexual orientation might have been involved.

Resolution

Complainant had also reported the incident to the MUNI complaints line and action was pending. Because the Whistleblower Program is mandated to track complaints made to its Hotline, Program staff followed up until satisfied the appropriate investigation and action was being taken.

Personnel action against the driver is in progress.

Complaints about MUNI service or personnel may be made online at www.sfmuni.com.

Time to Resolve

Less than 24 hrs: 20/33%

Less than 48 hrs: 1/1.6%

Less than 72 hrs: 1/1.6%

More than 72 hrs: 39/64%

Total Closed: 61

Complainant reported a public safety hazard concern in that a flower stand on Union St. put out large umbrellas on the sidewalk on sunny days where the 22-Fillmore bus stops. The umbrellas are difficult to avoid when exiting the bus.

We reported the matter to DPW who made an inspection, found the sidewalk umbrellas were not permitted and obtained agreement from the owner to discontinue their use. About a month later, complainant called again to state the problem was still occurring.

Upon second visit, DPW issued a \$100 Notice of Violation.

You may call the DPW Street Use Bureau at 554-5810 to determine if there is a permit for a sidewalk obstruction or to file a complaint.

Complainant informed us of a drain on Pine St. that had been missing a cover for months.

We consulted with the Dept. of Public Works Sewer Operations manager. He determined the drain was on the sidewalk, therefore the property owner's responsibility.

A Street and Sidewalk Inspector has cited the property owner.

City residents should call (415) 554-5810 for concerns on public right-of-way, such as broken sidewalk or roadway, and street construction.

Complaint questioned whether construction work nearby was permitted. He also complained that work was beginning at 8 a.m. seven days a week.

Investigation determined there were permits, but they were expired.

We contacted the Dept. of Building Inspection who issued a Notice of Violation and gave the owner a 30-day notice to comply. The renewed permit was approved and posted.

The Police Code sets the hours for construction from 7:00 a.m. to 8:00 p.m. seven days a week. (Sec. 2908)

The Dept. of Building Inspection website allows you to view building permit and complaint information for a particular address at <http://services.sfgov.org/dbipts/>. Or complaints about unpermitted construction can be filed by phone at 558-6096.



Don't jeopardize your confidentiality

We recommend that whistleblowers not discuss the complaint with others, including family, friends and co-workers. Discussion of your whistleblower disclosure may jeopardize your confidentiality and could hamper the investigation.