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Fraud, Waste + Abuse Program 2015 Annual Report



CITY OF OAKLAND

OFFICE of the CITY AUDITOR

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Background

In January 2009, Oakland voters established the City's Fraud, Waste + Abuse Program (FWA Program, or FWA)¹ as a function of the Office of the City Auditor. The FWA Program receives reports of complaints and allegations from City employees and residents, referred to as cases, on the quality and delivery of services, wasteful practices, misuse of funds, and the improper activities of government officials, employees, and contractors.

The Office of the City Auditor may coordinate each case investigation with other City departments or, if necessary, jurisdictions outside of the City of Oakland. All cases are given thorough consideration and closed only upon the satisfaction of the City Auditor.

A critical component of a whistleblower program includes providing a way to report suspicious activity. According to the Association of Certified Fraud Examiners (ACFE), tips are the most common method for the detection of fraud. ACFE also found that organizations with a hotline have a 51% likelihood of detecting fraud from a tip, compared to 33% in organizations without one.²

The City Auditor is committed to promoting the Fraud, Waste + Abuse Program to City employees and residents, as whistleblowers play an important role in keeping government accountable.

2015 Fraud, Waste + Abuse Program Outreach

The City Auditor conducts fraud awareness training at monthly New Employee Orientations to help promote the FWA Program to City employees, who are a valuable source of information for discovering potential fraud. According to the 2014 Report to the Nations on Occupational Fraud and Abuse, tips are, by far, the most common means of detection of fraud or wrong-doing, and employees are the source of almost half of all tips.

Fraud awareness training offers several benefits. Well-trained employees can identify and report suspect activity. This emphasizes the City's commitment to high ethical standards and promotes compliance with regulations and standards. When employees feel

¹ Whistleblower Protection Act, CA Government Code 53087.6, Whistleblower Protection Ordinance (OMC 2.38)

² Association of Certified Fraud Examiners, 2014 Report to the Nations. www.acfe.com

confident their concerns are heard and taken seriously, morale improves and productivity is increased.

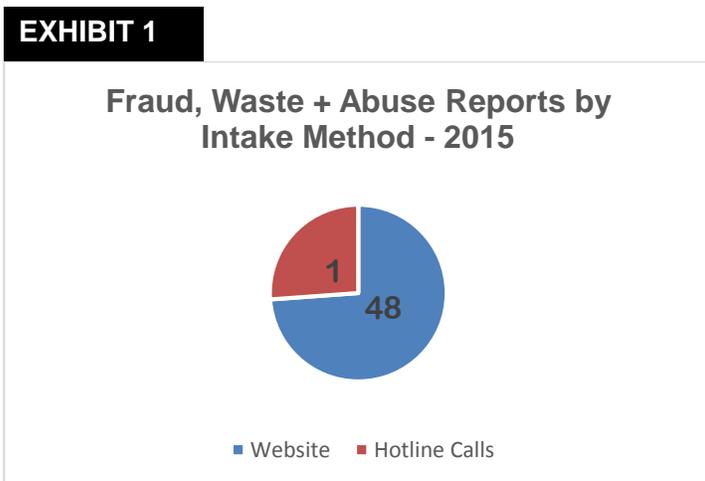
The City Auditor's Office presented a Fraud Awareness Training in 2015 to 120 employees at New Hire Orientation classes.

The City Auditor's Office also promoted the sponsorship of the International Fraud Awareness Week November 15 -21, 2015 including daily informational emails to all City of Oakland employees. Its global objective is to minimize the impact of fraud through prevention and detection. As a sponsor of International Fraud Week, the City Auditor's emails included tips, fraud facts, samples of fraudulent behavior and suggestions for defending against fraud as well as information about the City's Fraud, Waste + Abuse Program.

The FWA Program is also promoted through various presentations to City Council, Council Committees and other community groups throughout Oakland.

Filing a Fraud, Waste + Abuse Report

The City's confidential Fraud, Waste and Abuse Report Online Form and toll free Hotline number are accessible on the City Auditor's website. In 2015, all reports were submitted through these methods with 74 percent coming through the website. Whistleblowers may also choose to meet with the City Auditor or her staff in person, bringing evidence with them to support their case. The City Auditor welcomes other submission options to ensure accessibility. The majority (65 percent) of the whistleblowers in 2015 chose to report anonymously. All cases remain confidential throughout the investigative process, regardless of whether the reporter chooses to remain anonymous.



Investigation Process

The City Auditor and staff thoroughly review every report, oversee all investigations (even when the case is referred to another City department for assistance), and coordinate resources as necessary so each case is resolved timely.

Once a case is opened, auditors send an acknowledgement to website and hotline reporters encouraging them to check back for follow-up questions regarding the investigation. The confidential reporting process precludes the City Auditor's Office from providing the whistleblower with any updates, conclusions or actions taken to resolve the case.

The two factors most impacting the progress of each investigation include (1) the complexity of the case, and (2) the availability of witnesses and evidence.

The City Auditor's Office categorizes cases as follows:

Substantiated: the case was determined to have merit when investigated and recommendations for remediation were made to the City Administrator and to the appropriate City department.

Unsubstantiated: the case was determined not to have merit when investigated and was closed.

Insufficient Information: the whistleblower did not provide sufficient information or responses to questions in order to proceed with the investigation.

Frivolous: City Auditor's Office preliminary fact finding indicated the report was without merit, or not serious enough to use City resources to investigate.

Referred to Another Department or Jurisdiction: the case was referred to other City departments, requesting assistance with the investigation, or to jurisdictions outside the City of Oakland.

Exhibit 2 shows the number of cases referred to other departments or agencies in 2015.

Exhibit 2	
Department	Total
Oakland Police Department	9
Planning & Building	3
Alameda County District Attorney	2
Berkeley Police Department	1
California Bureau of State Audits	1
City Administrator	1
Finance Department	1
Public Works	1
Oakland Housing Authority	1
Total Referred Cases	20

Reports Received in 2015

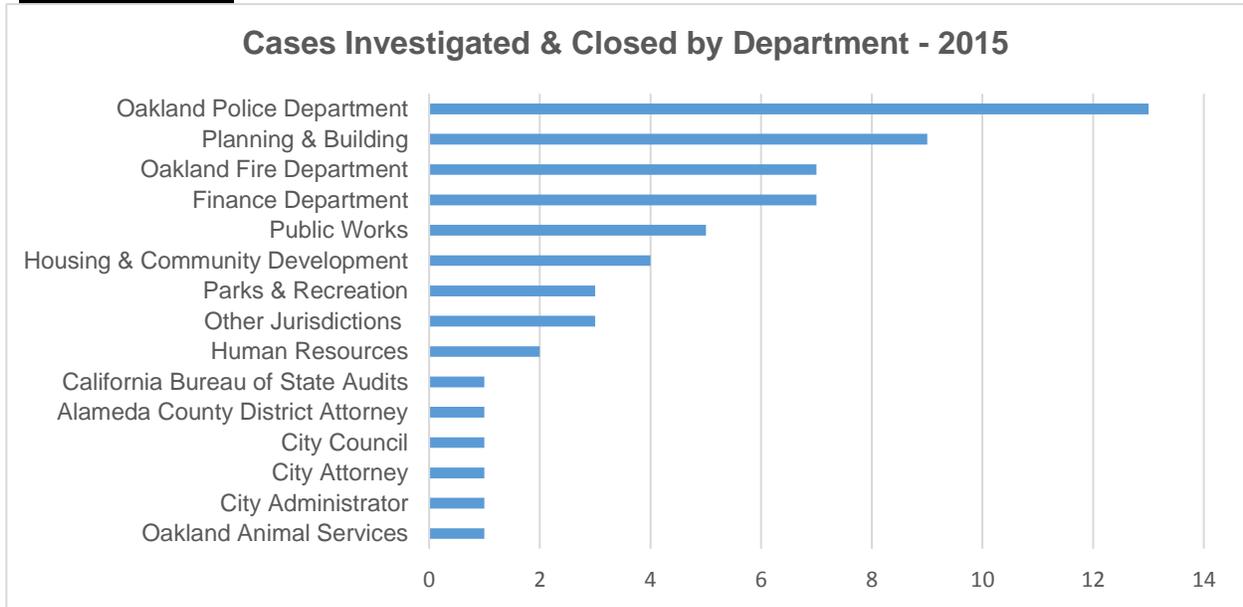
The City Auditor’s Office received 65 reports through the FWA Program in 2015. Exhibit 3 shows the number of cases by type of reported violation.

Exhibit 3	
Report Type	Total
Violation of City Policies	21
Misuse of City Assets, Theft, Embezzlement	20
Time Abuse	8
Confidentiality, Identity Theft	5
Other	4
Hiring Irregularities	3
Environmental Protection, Health or Safety Law Violation	2
Inquiry or Suggestion	2
Total Reports	65

Closed Cases as of December 31, 2015

We investigated and closed 59 cases in the 12-month period ending December 31, 2015, which included cases in progress from the prior year. Exhibit 4 summarizes the number of cases investigated and closed in 2015 by City department:

EXHIBIT 4



Open Cases as of December 31, 2015

At year end, the City Auditor has 22 ongoing cases. Exhibit 5 summarizes the open cases, as of year-end 2015, by type of reported violation.

EXHIBIT 5

Case Type	Total
Violation of City Policies	9
Misuse of City Assets, Theft, Embezzlement	5
Time Abuse	3
Contract Compliance	1
Other	3
Suggestion	1
Open Cases	22

Reports of Retaliation

There were no reports of retaliation in 2015. Retaliation against whistleblowers is illegal and is defined as any adverse employment act, including discharge, discipline or demotion. It is further defined by Oakland Ordinance 2.38.040, as follows:

No officer or employee of the City of Oakland shall use or threaten to use any official authority or influence to restrain or prevent any other person who is acting in good faith and upon reasonable belief as a whistleblower.

*No officer or employee of the City of Oakland shall use or threaten to use any official authority or influence to cause any **adverse employment action** as a reprisal against a City officer or employee who acts as a whistleblower in good faith and with reasonable belief that improper conduct has occurred [emphasis added].*

An **adverse employment action** for purposes of a retaliation claim includes firing and demoting; a lateral transfer; an unfavorable reference (that had no effect on a prospective employer's hiring decision); and the imposition of a more burdensome work schedule.

To establish retaliation, the whistleblower must demonstrate by a preponderance of evidence, the complainant's engagement in a protected activity was a substantial motivating factor for an adverse employment action.

Conclusion

The Fraud, Waste + Abuse Program continues to be an asset to the City of Oakland, encouraging ethical behavior and accountability and helping to create community trust in our government and its officials. Additional program benefits include:

- **Providing an anonymous means for employees and the public to submit reports**, which protects whistleblowers' confidentiality and encourages individuals to report improper activities.
- **Deferring future fraudulent behavior** by increasing the perception by potential perpetrators that the acts they have engaged in or are contemplating will be detected and punished.
- **Providing data that can be used to identify systemic problems** in a department or program.

For questions regarding this report, please contact City Auditor, Brenda Roberts, at cityauditor@oaklandnet.com or (510) 238-3378.

Stand up for Our City

Fraud, Waste + Abuse **Hotline** (888) 329-6390



If you would like to learn more about the Fraud, Waste + Abuse Program, please visit our website at <http://www.oaklandauditor.com/> or contact our office directly at cityauditor@oaklandnet.com.