



**Fraud
Waste
Abuse**

Whistleblower Program Annual Report Fiscal Year 2019-2020

November, 19, 2020



**CITY OF
OAKLAND**

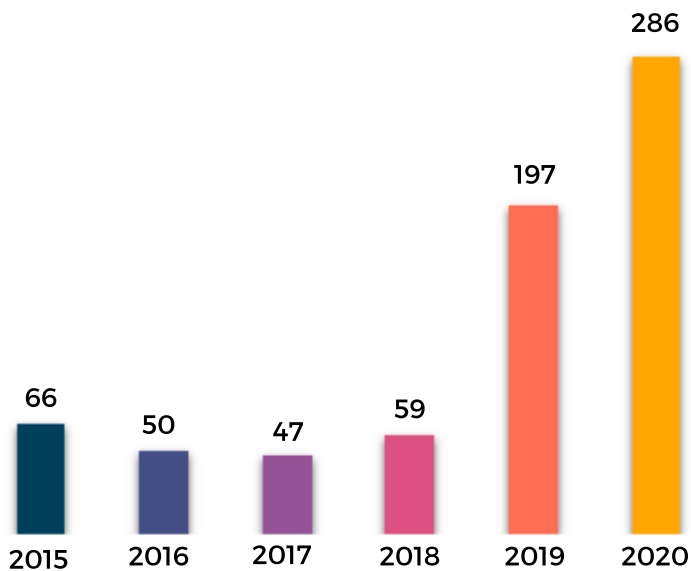
Office of the City Auditor

www.OAKwhistleblower.com | Hotline 1-888-329-6390

Whistleblower Program Summary Report

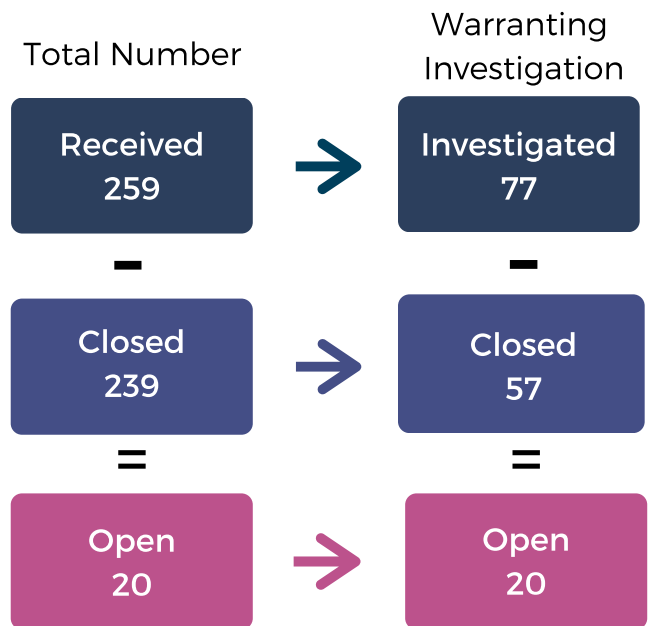
FISCAL YEAR 2019-2020

Whistleblower Allegations Submitted Between Calendar Years 2015-2020



2020 total is projected based on reports received through September 30, 2020

Whistleblower Allegations Submitted During Fiscal Year 2019-2020



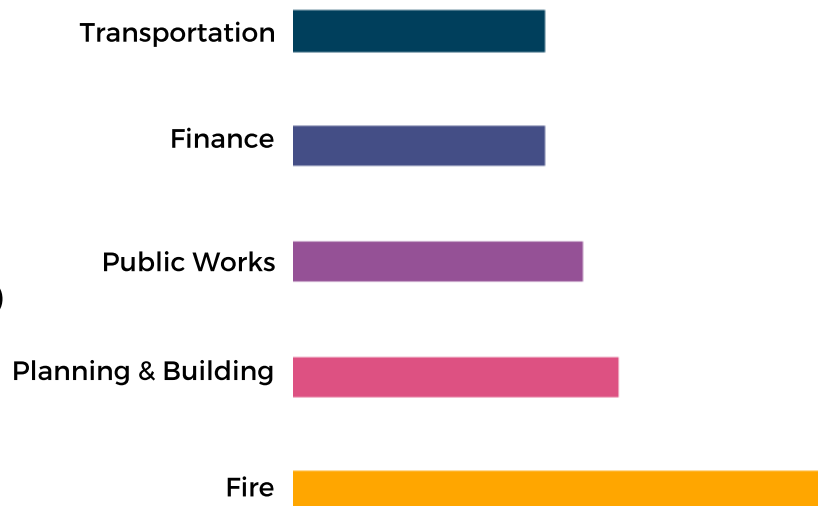
Fiscal Year is July 1, 2019 through June 30, 2020

Top Five Allegation Types



- Misuse of Assets or Services (5)
- Falsification of Contracts, Reports, or Records (7)
- Hiring Irregularities (10)
- Time Abuse (11)
- Misconduct or Inappropriate Behavior (14)

Top Five Departments Subject to Whistleblower Allegations



Whistleblower Program Annual Report

Fiscal Year 2019-2020

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Whistleblower Program Annual Report

Fiscal Year 2019-2020

The Whistleblower Program (Program) seeks to foster the highest standards of ethical behavior within Oakland's municipal government, and detects, deters, and defends against fraud, waste, and abuse that affects City resources.

The Program operates pursuant to the Whistleblower Protection Ordinance sponsored by City Auditor Courtney Ruby and Councilmembers Ignacio De La Fuente and Pat Kernighan and passed by the City Council in September 2008. After taking effect in January 2009, the Whistleblower Ordinance:

- established a Whistleblower Hotline for confidentially reporting suspected fraud, waste, and abuse; and
- prohibited retaliation against people who disclose information about improper activities.

The bulk of Program activities are rooted in the following objectives:

- promoting an ethical culture and awareness of fraud, waste, and abuse;
- providing responsive customer service to the general public and City employees; and
- conducting and managing investigations into allegations of fraud, waste, and abuse.

Whistleblower Program Updates in 2019 and Beyond

On January 7, 2019, Courtney Ruby returned to City Hall after leaving office for four years and was sworn into her third term as Oakland's elected City Auditor. Since then, the Whistleblower Program has undergone important changes:

- ✓ After being vacant for over a year, the Whistleblower Program Manager was filled in June 2019.
- ✓ New procedures were implemented for receiving, acknowledging, categorizing, and following-up on whistleblower allegations.
- ✓ A new framework was adopted for evaluating whistleblower allegations and determining when a full investigation is warranted.
- ✓ Changes to the Whistleblower Hotline were implemented to further standardize follow-up with whistleblowers and provide periodic reporting.

The Whistleblower Hotline

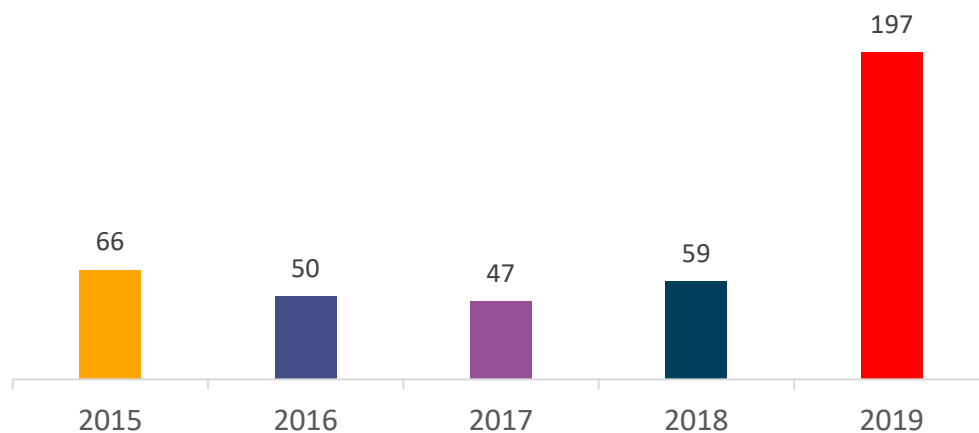
The Whistleblower Hotline is the easiest way for City employees, contractors, residents, and all members of the public to report potential fraud, waste, and abuse.

The Whistleblower Hotline is accessible online on the City Auditor's website (www.OAKwhistleblower.com), or by phone (1-888-329-6390). The Hotline is available 365 days a year, 24 hours a day, and has language translation capabilities.

Whistleblower allegations increased significantly in 2019 and 2020

The Office of the City Auditor received 197 whistleblower allegations in 2019, an increase of 234 percent from 2018. The Exhibit below shows the number of allegations received over the last five calendar years.

Whistleblower Allegations Over the Years



In the first nine months of 2020 the Office of the City Auditor has already received 227 allegations, which projects to 286 allegations for 2020.

The remaining pages of this report, however, will focus on whistleblower allegations between July 1, 2019 and June 30, 2020 (FY 2019-20). This is the first year following the hiring of the new Whistleblower Program Manager, whose first day at the Office was June 3, 2019.

FY 2019-20 Whistleblower Allegations by Type

Whistleblower allegations from the public included a diverse range of allegation types. The table below shows the allegation types and their totals for FY 2019-20.

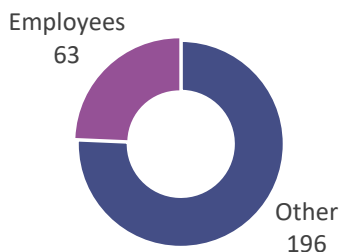
Allegation Type	Total
Other*	110
Misconduct or Inappropriate Behavior	29
Environmental Protection, Health or Safety	26
Inquiries and Suggestions	23
False Contracts, Reports or Records	14
Time Abuse	13
Hiring Irregularities	12
Theft	7
Violation of Policy	6
Accounting and Auditing Matters	5
Misuse of Assets or Services	5
Improper Supplier or Contractor	3
Embezzlement	2
Unsafe Working Conditions	2
Confidentiality and Misappropriation	1
Unauthorized Use of Facilities and Equipment	1
Totals	259

Note: *Allegations categorized as “Other” include a diverse range of allegations including criminal activity, public nuisances, and irresponsible/poor/unfair customer service. Forty-two percent – or 110 of the total 259 whistleblower allegations submitted in FY 2019-20 fit into this category.

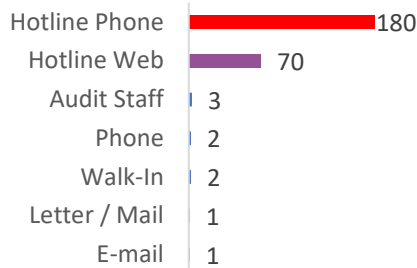
Characteristics of FY 2019-20 Whistleblowers

Whistleblowers and the ways that they reported concerns were also diverse. Below shows the reporting by City Employees and other, the reporting methods used, and requests for anonymity.

Self-Reported City Employees



Reporting Methods



Request for Anonymity



FY 2019-20 Whistleblower Allegations Warranting Investigation

The Whistleblower Team reviews all whistleblower allegations, but not all warrant an investigation.

The City Auditor's Office requires four criteria for launching an investigation: 1) If true, allegations must meet the definition of "fraud," "waste," or "abuse;"¹ 2) Allegations must involve City of Oakland property, infrastructure, employees, officials, or otherwise fall within the City's jurisdiction; 3) Allegations must have occurred within 12 months of being reported; 4) Allegations must not be known to be the subject of current litigation. The City Auditor's Office may also investigate reports that have health and safety implications, involve chronic irresponsiveness, or present significant risk to the City.

The exhibit below shows the allegation type, allegations closed by September 30, 2020, and allegations still open as of September 30, 2020. A detailed list of reports that warranted investigation is included in Appendix A.

Status of FY 2019-20 Whistleblower Allegations Warranting Investigation

Allegation Type	Closed by September 30, 2020	Still Open as of September 30, 2020	Total
Misconduct or Inappropriate Behavior	14	0	14
Other	11	2	13
Time Abuse	6	5	11
Hiring Irregularities	6	4	10
False Contracts, Reports or Records	7	0	7
Misuse of Assets or Services	2	3	5
Theft	2	2	4
Violation of Policy	3	1	4
Accounting and Auditing Matters	2	2	4
Environmental Protection, Health or Safety	3	0	3
Improper Supplier or Contractor	1	1	2
Totals	57	20	77

Investigation Handling

Most investigations (47 of the 77) are handled by the City Auditor's Whistleblower Team; however, in some instances, the Office of the City Auditor forwards allegations confidentially to

¹ "Fraud" is an attempt to personally benefit through wrongful or criminal deception. "Waste" is imprudent or careless use of the City's resources. "Abuse" is misusing authority and access for personal benefit.

other City departments or outside agencies who investigate the allegations, and then report results to the City Auditor's Whistleblower Team. City departments are sometimes better resourced to investigate allegations, and other cases fall within the purview of City entities such as Employee Relations or the Public Ethics Commission. The Office of the City Auditor considers the sensitivity, required resources, and severity of allegations before forwarding allegations to other City departments.

Results of Closed Cases that Warranted Investigation

Generally, whistleblower investigations have one of the following distinct results:

1. **Substantiated:** After an investigation, allegations were verified, and recommendations were made to the City Administrator and appropriate City departments.
2. **Refuted:** After an investigation, allegations were determined to be without merit.
3. **Not Substantiated:** After an investigation, the allegations were neither verified, determined to be without merit, or the information was insufficient to prove or disprove allegations.
4. **Not fraud, waste, or abuse:** After conducting preliminary work, the Whistleblower Team determined the allegations did not qualify as fraud, waste, or abuse.

Fifty-seven (57) of the 77 FY 2019-20 whistleblower cases that warranted investigation were closed by September 30, 2020 (74 percent). These Whistleblower investigations were closed for the five reasons listed below:

- Five (5) investigations were substantiated, meaning that after an investigation, allegations were confirmed or proven, and recommendations were made to the City Administrator and appropriate City departments for corrective action.
- Thirteen (13) investigations were refuted, which means that after an investigation, allegations were determined to be false.
- Eleven (11) investigations were not substantiated, meaning after an investigation, the allegations were neither verified, or determined to be false. Often the information is insufficient to prove or disprove allegations.
- Fifteen (15) investigations were closed after further preliminary work determined that the cases did not qualify as fraud, waste, and abuse, was in litigation, or was outside of the City's jurisdiction.
- Fourteen (14) investigations were closed after the Whistleblower Team forwarded them to other City departments or Outside agencies for further review.

More details of the closed cases are provided in the Appendix.

Outcomes of Investigations with Substantiated Allegations

The Whistleblower Program investigated and substantiated five allegations that were submitted to the Hotline in FY 2019-20, and four that were submitted before FY 2019-20. We identified a range of waste, fraud, and abuse that had negative financial, reputational, and operational effects on the City. Accordingly, we made recommendations to address these problems, and the City consequently took corrective and preventive actions.

Allegation Type	Investigation Summary	Actions Taken
Misuse of Assets or Services	A City department did not adequately control restricted funds.	Policy/ Process Review
Time Abuse	A manager violated long established shift trading practices.	Policy/ Process Review
Violation of Policy	A department's stewardship of controlled substances was lax and employees may have been taking advantage of lax controls.	Discipline
Falsification of Contracts, Reports or Records	An employee improperly handled controlled substances.	Discipline
Other	An employee was not meeting expectations and was presenting difficulties for co-workers.	Training
Time Abuse	A City employee claimed and was paid for more time than actually worked.	Discipline
Misuse of Assets or Services	Two employees were working outside of the City during their scheduled shifts.	Discipline
Time Abuse	A supervisor signed overtime sheets without the employees working overtime.	Discipline
Other	A City official directed the City Administration to provide inappropriate contributions to an outside entity, including unauthorized office space, staffing resources, and financial contributions.	Policy/ Process Review

Appendix: Chronological List of 77 Whistleblower Allegations Received in 2019-2020 with Allegation Details, Investigation Outcomes, and Actions Taken

	Date Opened	Allegation Type	Allegation Details	Outcome	Action Taken
1	7/2/2019	Environmental Health & Safety	Allegation of blocked fire exits at a private business.	Forwarded	No Action Taken
2	7/9/2019	Other	Allegation of blocked fire exits at a private business.	Forwarded	No Action Taken
3	7/31/2019	Misconduct or Inappropriate Behavior	Allegation of City employees abusing their position and access to City systems to evade permitting requirements and payments.	Not Substantiated	No Action Taken
4	8/5/2019	Misconduct or Inappropriate Behavior	Allegation of possible mistreatment by a public servant.	Not Substantiated	No Action Taken
5	8/6/2019	Time Abuse	Allegation that a City employee unfairly worked an alternative work schedule.	In Process	In Process
6	8/9/2019	Violation of Policy	Allegation that a department's stewardship of controlled substances was lax, and employees may have been taking advantage of lax controls.	Substantiated	Discipline
7	8/9/2019	Misconduct or Inappropriate Behavior	Allegation by a City employee that their department was rife with mismanagement, favoritism, and violations of City administrative rules.	Refuted	No Action Taken
8	8/17/2019	Misconduct or Inappropriate Behavior	Allegation that City employees were using their roles and access to obscure unpermitted work on their personal property.	Not Substantiated	No Action Taken
9	8/21/2019	Other	Allegation that an unqualified City employee was not meeting expectations and was presenting difficulties for co-workers. Reporter was concerned about potential risk of retaliation as somehow, previously reported concerns were revealed to the employee in question.	Substantiated	Training

	Date Opened	Allegation Type	Allegation Details	Outcome	Action Taken
10	8/21/2019	Misconduct or Inappropriate Behavior	Allegation that a City employee suffered retaliation because of their earlier role as investigator on a previous whistleblower investigation.	Not Substantiated	No Action Taken
11	8/21/2019	Other	Allegation that employees of a City contractor engaged in numerous inappropriate activities, including potentially illegal acts.	In Process	In Process
12	8/24/2019	Falsification of Contracts, Reports or Records	Allegation that environmental impact reports regarding new development are not provided to the public as required.	Not Fraud, Waste, or Abuse	Referred Reporter to Proper Channel
13	8/29/2019	Misconduct or Inappropriate Behavior	Allegation that a supervisor tipped employees off to an impending drug test and gave them information that allowed employees to pass.	Forwarded	No Action Taken
14	9/18/2019	Misconduct or Inappropriate Behavior	Allegation of possible mistreatment by a City employee.	Forwarded	No Action Taken
15	9/19/2019	Misconduct or Inappropriate Behavior	Allegation of unfair shift assignments for some employees in a City department.	Forwarded	No Action Taken
16	9/24/2019	Misconduct or Inappropriate Behavior	Allegation of unfair shift assignments for some employees in a City department.	Forwarded	No Action Taken
17	10/3/2019	Misconduct or Inappropriate Behavior	Allegation that an acting manager committed favoritism by offering overtime assignments outside of the process previously established by upper management.	Forwarded	No Action Taken

	Date Opened	Allegation Type	Allegation Details	Outcome	Action Taken
18	10/24/2019	Other	Allegation that a City official directed the City Administration to provide inappropriate contributions to an outside entity, including unauthorized office space, staffing resources, and financial contributions.	Substantiated	Policy/ Process Review
19	10/24/2019	Theft	Allegation that at least one City employee worked with a non-employee to threaten them and charge them for fake permits.	In Process	In Process
20	10/25/2019	Hiring Irregularities	Allegation that a person was hired into a position even though that person was less qualified than other candidates.	Not Fraud, Waste, or Abuse	Referred Reporter to Proper Channel
21	10/28/2019	Misuse of Assets or Services	Allegation that management bought new equipment and decommissioned perfectly good equipment that was less than a year old, presumably to use spending authority from the recently concluded fiscal year.	In Process	In Process
22	10/31/2019	Time Abuse	A manager violated long established shift trading practices.	Substantiated	Policy/ Process Review
23	11/1/2019	Accounting and Auditing Matters	Allegation that fees from developers were not tracked/collected. Reporter also alleged that they have requested information from the City Administrator's Office but did not receive anything.	In Process	In Process
24	11/8/2019	Time Abuse	Allegation that a City employee claimed and was paid for more time than actually worked.	In Process	In Process
25	11/19/2019	Time Abuse	Allegation that a City employee claimed and was paid for more time than actually worked.	Forwarded	No Action Taken

	Date Opened	Allegation Type	Allegation Details	Outcome	Action Taken
26	11/20/2019	Misuse of Assets or Services	Allegation that employees were being given car allowances even if they do not own cars.	Refuted	No Action Taken
27	11/20/2019	Time Abuse	Allegation that a City employee claimed and was paid for more time than actually worked.	Substantiated	Discipline
28	11/21/2019	Time Abuse	Allegation that a City employee claimed and was paid for more time than actually worked.	Forwarded	No Action Taken
29	11/24/2019	Misconduct or Inappropriate Behavior	Allegation that a City official used their position to get preferential treatment from other City employees.	Forwarded	No Action Taken
30	11/26/2019	Falsification of Contracts, Reports or Records	Allegation that the proper process was not followed in the public hearing notice for development of a property.	Not Fraud, Waste, or Abuse	Referred Reporter to Proper Channel
31	12/6/2019	Misuse of Assets or Services	Allegation that an employee misused federal grant funds.	In Process	In Process
32	12/7/2019	Hiring Irregularities	Allegation of improprieties in the hiring of a new upper management employee including conflicts of interest, and the leaking of interview questions to one specific candidate.	In Process	In Process
33	12/13/2019	Theft	Allegation that a City employee stole food and equipment.	In Process	In Process
34	12/17/2019	Violation of Policy	Allegation that a manager lacked the required certifications to perform required duties.	Not Fraud, Waste, or Abuse	Referred Reporter to Proper Channel
35	12/18/2019	Misuse of Assets or Services	Allegation that a City employee frequently used City time and equipment to conduct personal business.	In Process	In Process

	Date Opened	Allegation Type	Allegation Details	Outcome	Action Taken
36	12/27/2019	Accounting and Auditing Matters	Allegation of inappropriate financial relationships between companies and the City that presents conflicts of interest.	Not Fraud, Waste, or Abuse	Referred Reporter to Proper Channel
37	1/2/2020	Improper Supplier or Contractor Activity	Allegation that false information was presented by the City at a public meeting.	Not Fraud, Waste, or Abuse	Referred Reporter to Proper Channel
38	1/3/2020	Accounting and Auditing Matters	Allegation that City's paid leave accruals were miscalculated and were presented inaccurately in paystubs.	Refuted	No Action Taken
39	1/3/2020	Other	Allegation of a large drug operation in which people were openly selling and using drugs.	Forwarded	No Action Taken
40	1/13/2020	Hiring Irregularities	Allegation that a department manager passed up qualified candidates to install personal "favorites" in supervisory roles.	Refuted	No Action Taken
41	1/13/2020	Hiring Irregularities	Allegation that hiring irregularities by a departmental manager resulted in unnecessary vacancies and qualified candidates being passed over for promotions.	Refuted	No Action Taken
42	1/13/2020	Time Abuse	Allegation that a City employee claimed and was paid for more time than actually worked.	Refuted	No Action Taken
43	1/14/2020	Falsification of Contracts, Reports or Records	Allegation that someone falsified county records to lower property taxes.	Forwarded	No Action Taken
44	1/28/2020	Other	Allegation that a car dealership unlawfully hosted other business activities on the property.	Refuted	No Action Taken

	Date Opened	Allegation Type	Allegation Details	Outcome	Action Taken
45	1/30/2020	Theft	Allegation that a City employee overcharged merchants for required City services.	Not Substantiated	No Action Taken
46	1/31/2020	Hiring Irregularities	Allegation that an employee was promoted to a position without meeting the required qualifications.	Refuted	No Action Taken
47	2/4/2020	Other	Allegation that City-provided mobile phones are being hacked.	Not Fraud, Waste, or Abuse	Referred Reporter to Proper Channel
48	2/6/2020	Environmental Health & Safety	Allegation that the City may not have sufficiently notified employees about health and safety concerns arising from the discovery of toxins at a City facility.	Refuted	No Action Taken
49	2/14/2020	Falsification of Contracts, Reports or Records	Allegation that a business displayed a fake City of Oakland Business License certificate on their website.	Refuted	No Action Taken
50	2/18/2020	Time Abuse	Allegation that a City employee claimed and was paid for more time than actually worked.	In Process	In Process
51	2/25/2020	Misconduct or Inappropriate Behavior	Allegation that a City official abused their position to solicit special favors.	Not Substantiated	No Action Taken
52	2/27/2020	Environmental Health & Safety	Allegation that fumes from an adjacent body shop enter the inside of reporter's home, contaminating the air quality.	Not Fraud, Waste, or Abuse	Referred Reporter to Proper Channel
53	3/3/2020	Misuse of Assets or Services	Allegation that departmental management misused federal grant funding.	Not Substantiated	No Action Taken
54	3/5/2020	Other	Allegation that management treated employees unfairly for filing a grievance in the past and committed several other unethical acts.	Not Substantiated	No Action Taken

	Date Opened	Allegation Type	Allegation Details	Outcome	Action Taken
55	3/7/2020	Misconduct or Inappropriate Behavior	Allegation that a management employee showed favoritism for some employees, discriminated based on race and sex, treated customers inappropriately, and misused City assets.	Not Fraud, Waste, or Abuse	Referred Reporter to Proper Channel
56	3/9/2020	Other	Allegation that a member of upper management was not knowledgeable about their job description, and was generally incompetent.	In Process	In Process
57	3/10/2020	Time Abuse	Allegation that a City employee claimed and was paid for more time than actually worked.	In Process	In Process
58	3/12/2020	Falsification of Contracts, Reports or Records	Allegation that management did not sufficiently warn employees and occupants that a City facility was contaminated with hazardous materials.	Refuted	No Action Taken
59	3/13/2020	Other	Allegation that a supervisor offered to promote employees if they pay the supervisor, and that this supervisor discriminated on the basis of race while considering promotional opportunities.	Not Substantiated	No Action Taken
60	3/13/2020	Hiring Irregularities	Allegation that a supervisor accepted monetary bribes in exchange for promotions.	Refuted	No Action Taken
61	3/18/2020	Other	Allegation that a manager falsely represented job duties on a request for a pay raise.	Refuted	No Action Taken
62	3/22/2020	Theft	Allegation that a City-owned garage charged a customer's credit card for 7 more days than it was supposed to.	Not Substantiated	No Action Taken

	Date Opened	Allegation Type	Allegation Details	Outcome	Action Taken
63	3/25/2020	Other	Allegation that the City of Oakland issued parking citations on vehicles that were not parked within the City of Oakland's boundaries.	Forwarded	No Action Taken
64	3/27/2020	Hiring Irregularities	Allegation that some job qualifications were structurally flawed and unfair.	Not Fraud, Waste, or Abuse	Referred Reporter to Proper Channel
65	3/27/2020	Hiring Irregularities	Allegation that nepotism and favoritism tainted hiring and promotion decisions.	In Process	In Process
66	4/7/2020	Falsification of Contracts, Reports or Records	Allegation that a City employee filed fraudulent documents in advance of a hearing.	In Litigation	No Action Taken
67	4/29/2020	Time Abuse	Allegation that a City employee claimed and was allowed to work an alternate work schedule without proper authorization.	Not Substantiated	No Action Taken
68	5/4/2020	Accounting and Auditing Matters	Allegation that the City inappropriately assessed a franchise fee through a utility company.	In Process	In Process
69	5/13/2020	Time Abuse	Allegation of longstanding overtime abuse by a City employee.	In Process	In Process
70	5/18/2020	Falsification of Contracts, Reports or Records	Allegation that the City issued a parking citation even though the identifying information of the cited vehicle was not that of the Reporter's vehicle.	Not Fraud, Waste, or Abuse	Referred Reporter to Proper Channel
71	5/20/2020	Improper Supplier or Contractor Activity	Allegation that requests for service through OAK 311 were not fulfilled, and the responsible contractor may not be legitimate/eligible to do business for the City.	In Process	In Process

	Date Opened	Allegation Type	Allegation Details	Outcome	Action Taken
72	5/23/2020	Violation of Policy	Allegation that the City was assisting a religious organization in violation of the constitutional principle of separation of church and state. The Reporter further alleged that intake forms are available only in English by sighted people which violated the City's Equal Access requirements.	Not Fraud, Waste, or Abuse	Referred Reporter to Proper Channel
73	5/28/2020	Hiring Irregularities	Allegation of nepotism and favoritism in the hiring of several City employees.	In Process	In Process
74	6/4/2020	Misconduct or Inappropriate Behavior	Allegation that an employee who was out on workers compensation reported to work without the necessary release documentation from a physician.	Not Fraud, Waste, or Abuse	Referred Reporter to Proper Channel
75	6/16/2020	Hiring Irregularities	Allegation that a member of the City's upper management hired a friend who was not qualified for the position.	In Process	In Process
76	6/20/2020	Other	Allegation that a City official closed an investigation without proper review and investigation of claims.	Forwarded	No Action Taken
77	6/22/2020	Violation of Policy	Allegation that a high-level City employee enforced an illegal policy.	In Process	In Process

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The Whistleblower Program

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