

COUNTY FRAUD HOTLINE – DOES IT WORK?

SUMMARY

The Orange County Fraud Hotline was established to provide a means for county employees and the public to report suspected occurrences of fraud, misuse of county resources and significant violations of county policy. The Orange County Internal Audit Department (IAD) is an independent department that reports only to the Board of Supervisors and is responsible for developing and managing of the Fraud Hotline program. The 2003-2004 Orange County Grand Jury became interested in the Fraud Hotline after receiving a letter of complaint questioning the IAD's processing of Hotline calls.

The Grand Jury learned that all Hotline information received is reviewed and directed for processing in several ways. For example, a complaint may receive no action or may be referred to the office of the Chief Executive Officer or other county departments or state agencies for processing. The IAD tracks and produces a breakdown of information, which denotes what calls are received and how they are processed. Complaints regarding other county services or state agencies are referred to those agencies.

The Grand Jury concluded that the Fraud Hotline could be of great value and is appropriate for the day-to-day operation of the county. Several areas of the Hotline's operational procedures need to be improved. In addition, the obsolete telephone-number referral list must be updated and the Hotline needs to be better publicized so that county employees are aware of its existence and understand how to access it.

INTRODUCTION

The 2003-2004 Orange County Grand Jury became interested in the County Fraud Hotline after receiving a letter of complaint questioning the Internal Audit Department's processing of Hotline calls.

The purpose of the Hotline is to provide a conduit for county employees and the public to report suspected cases of fraud, waste and abuse of county resources. The Orange County Fraud Hotline was established Sept. 1, 1994. It was inactive for a short period of time after the December 1994 bankruptcy and then reactivated in May of 1996. The Hotline is always available by telephone, but is staffed by IAD employees only during normal business hours. The IAD is an independent department and reports only to the Board of Supervisors. At inception the Hotline's background and purpose were communicated by memo to county department heads and by flyers to county agencies and departments.

PURPOSE

The focus of this investigation was to evaluate the Fraud Hotline, to determine the knowledge of the service by Orange County employees and the public, and to assess the adequacy of processes and methods for resolving problems.

METHOD OF STUDY

The Grand Jury interviewed the management staff of the Orange County Internal Audit Department (the founders and gatekeepers of the Hotline), the Office of Risk Management and the District Attorney's Office of Economic Crimes. The Grand Jury examined various items of documentation, including the Hotline's current procedures, reference telephone numbers, posters, annual reports to the Board of Supervisors and redacted copies of complaints received during 2003. Selected administrative and management staff from many county departments, randomly selected county employees and a labor organization representative were interviewed to determine their level of knowledge related to the Fraud Hotline.

DISCUSSION

The Grand Jury discovered that the county has several hotlines intended for abuse notification (such as automobile and MediCal insurance fraud) and for child-abuse complaints, but that there is no coordination among the hotlines. It was not the intent of this study to investigate the other existing hotlines, because the complaint letter received by the Grand Jury specifically reported that inadequate investigations were made when users registered

complaints using the Fraud Hotline. Nevertheless, the Grand Jury felt that all the hotlines might be more effective if there was some coordination among the services since many of the calls received by the Fraud Hotline were intended for other agencies.

The Fraud Hotline policy and procedures remain in a draft form dated 1997. Complaints regarding topics not served by the Fraud Hotline are referred to the appropriate telephone numbers. The Grand Jury conducted an exercise to verify the IAD's reference telephone numbers and found that most of these telephone-numbers were incorrect. The 1997 draft procedures do not address a telephone-number verification process.

Another problem is that after-hours calls may not be processed because the caller supplies insufficient information. Since all calls are intended to be anonymous, there is no means of contacting the caller for further information.

The Grand Jury learned that all Hotline information received is reviewed and disseminated for processing. A complaint may receive no action or may be referred to the Office of the Chief Executive Officer (CEO) or to other county or state agencies for processing. The result of investigations is reported to the IAD to close out their file. The Hotline activity for the period Jan. 1, 2003, to Oct. 31, 2003, totaled 36 calls. Twelve calls were identified as actionable and indicative of employee misconduct. Six of those 12 cases were resolved, and six remain open pending resolution. Fifteen calls pertained to welfare fraud and were referred to the MediCal Fraud and Abuse Hotline. Five were identified as non-county related and referred out. The Internal Audit Department Fraud Hotline activity report did not specify to which agency the items were referred. Two calls were identified as "others." Hotline activity is tabulated quarterly and included in the IAD finalized annual report, which is submitted to the Board of Supervisors, members of the Audit Oversight Committee, the County Executive Officer, the Clerk of the Board of Supervisors and the Foreperson of the Grand Jury.

Informational Hotline posters were initially provided to county agencies and departments. Members of the Grand Jury surveyed many of the county buildings and determined that most of the posters were no longer displayed and that county employees are unaware of the Hotline's purpose or how to reach the service. No procedure exists to inform the public about the service of the Fraud Hotline, although the IAD stated that the

public has access to the Hotline. Searches of the Orange County Intranet for references to the Hotline service provided no information. The Grand Jury learned during interviews with randomly chosen county employees and a representative of a county labor organization that there is little or no knowledge regarding the existence or purpose of the Fraud Hotline.

The Grand Jury also was concerned about possible retribution against reporters of abuse. These concerns stemmed from interviews with county personnel who stated that they would not report any possible county misuse because of the fear of retaliation.

Employee concerns of retaliation generated another question by the Grand Jury: "What protection do Orange County employees have if they report misuse of County resources?" The Grand Jury learned that the County does not have a "whistle-blower" policy. Although, some departments told the Grand Jury, the County observes the California State "whistle-blower" policy. *California Labor Code § 1102.5 (2004).*

California Labor Code § 1102.5 (2004). Employee's right to disclose information to government or law enforcement agency; Employer prohibited from retaliation' Civil penalty; Confidential communications. (Refer to Appendix 1)

California Labor Code § 1102.8 (2004). Requires the displaying of employees' rights and responsibilities under "whistle-blower" policy. (Refer to Appendix 2)

The Grand Jury concluded that once several operational procedures have been improved, the Fraud Hotline could be of great value in the day-to-day operation of the county.

FINDINGS

Under *California Penal Code § 933 and § 933.05*, responses are required to all findings. The 2003-2004 Orange County Grand Jury arrived at the following findings:

1. Procedures of the Orange County Internal Audit Department for processing calls to the Fraud Hotline still exist only in a draft form dating from 1997.

2. A designated person within IAD staffs the Fraud Hotline during business hours. Many after-hours calls are not processed because callers do not leave adequate information for an investigation.
3. Most calls to the Fraud Hotline are redirected to another department or agency.
4. Many reference telephone numbers used by the IAD are incorrect, and telephone-number verification processes are not in place.
5. Although posters were initially provided to county agencies and departments, few of the posters are currently displayed and many county employees are not aware of the Hotline. There is no publicity program to enhance public awareness.
6. Orange County Intranet, which is for internal use only, provides no information regarding the Fraud Hotline.
7. Orange County Office of Risk Management, the District Attorney and the IAD all operate hotlines, yet those three organizations do not coordinate their systems.
8. The Fraud Hotline's Procedures Manual assures anonymity for callers but does not address protection of callers from retaliation.

Responses to all findings are requested from the Orange County Internal Audit Department. Response to Finding 7 is required from the District Attorney and requested from the CEO, Risk Management.

RECOMMENDATIONS

In accordance with *California Penal Code* §933 and §933.05, each recommendation requires a response from the government entity to which it is addressed. These responses are to be submitted to the Presiding Judge of the Superior Court. Based upon the findings, the 2003-2004 Orange County Grand Jury recommends that the IAD:

1. Finalize and issue the operating procedures for the Fraud Hotline. (Finding 1)

2. Design an after-hours call-response system that asks questions of the caller that would normally be asked during business hours. (Finding 2)

3. Meet with other agencies that have hotlines to develop a better system to process hotline calls, with the objective of reducing the number of redirected calls. (Findings 3 and 7)

4. Update a list of reference telephone numbers. Adopt a method for periodically verifying and updating the telephone numbers thereafter. (Finding 4)

5. Inform Orange County employees of the existence of the Fraud Hotline, by redistributing posters to all agencies and departments. Place and maintain additional posters in county public-announcement areas, e.g., Board of Supervisors' bulletin boards at the Hall of Administration. Send a quarterly internal e-mail to all employees explaining the purpose of the Hotline. Contact the employee organizations and request that they provide quarterly information about the County Fraud Hotline in their communications to employees. (Finding 5)

6. Design an internal Web page that provides information about all telephone numbers available to employees to report county-related misuse of county resources. (Finding 6)

7. Develop and disseminate a policy that identifies Orange County employees are protected by the *California Labor Code §1102.5 (2004)* and *California Labor Code §1102.8 (2004)* (Finding 8)

Responses to all recommendations are requested from the Orange County Internal Audit Department. A response from the Orange County Board of Supervisors is required for Recommendation 7.

APPENDICES

APPENDIX 1

California Labor Code § 1102.5 (2004)

§ 1102.5. Employee's right to disclose information to government or law enforcement agency; Employer prohibited from retaliation; Civil penalty; Confidential communications

(a) An employer may not make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation or noncompliance with a state or federal rule or regulation.

(b) An employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation or noncompliance with a state or federal rule or regulation.

(c) An employer may not retaliate against an employee for refusing to participate in an activity that would result in a violation of state or non compliance with a state or federal rule or regulation.

(d) An employer may not retaliate against an employee for having exercised his or her rights under subdivision (a), (b), or (c) in any former employment.

(e) A report made by an employee of a government agency to his or her employer is a disclosure of information to a government or law enforcement agency pursuant to subdivisions (a) and (b).

(f) In addition to other penalties, an employer that is a corporation or limited liability company is liable for a civil penalty not exceeding ten thousand dollars (\$10,000) for each violation of this section.

(g) This section does not apply to rules, regulations, or policies which implement, or to actions by employers against employees who violate, the confidentiality of the lawyer-client privilege of Article 3 (commencing with Section 950), the physician-patient privilege of Article 6 (commencing with Section 990) of Chapter 4 Division 8 of the Evidence Code, or trade secret information.

APPENDIX 2

California Labor Code § 1102.8 (2004)

§ 1102.8. *Display of employees' rights and responsibilities under the **whistleblower** laws; Telephone number*

- (a) *An employer shall prominently display in lettering larger than size 14-pica type a list of employees' rights and responsibilities under the **whistleblower** laws, including the telephone number of the **whistleblower** hotline described in Section of 1102.7.*

- (b) *Any state agency required to post a notice pursuant to Section 8548.2 of the Government Code or subdivision (b) of Section 6128 of the Penal Code shall be deemed in compliance with the posting requirement set forth in subdivision (a) if the notice posted pursuant to Section 8548.2 of the Government Code or subdivision (b) of Section 6128 of the Penal Code also contains the **whistleblower** hotline number described in Section 1102.7.*