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CITY HALL • ONE FRANK H. OGAWA PLAZA, 4TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Auditor
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City Auditor

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September 22, 2009

HONORABLE CITY COUNCIL
CITY OF OAKLAND

**RE: INFORMATIONAL REPORT TO THE CITY COUNCIL ON THE CITY
AUDITOR'S WHISTLEBLOWER PROGRAM**

Dear Members of the Council:

I am pleased to present the Fraud, Waste + Abuse Prevention Program (FW+A) of the Office of the City Auditor. One year ago, Councilmember De La Fuente, Councilmember Kernighan and I presented a request to the full City Council to fund a formal "Whistleblower Program." The backing of the elected leadership of the City sent a strong message to the public and the employees – that no matter what differences we may have, when it comes to creating a transparent, accountable government steeped in ethics – we are **standing up** for our city together, to combat fraud, waste and abuse.

Since September 2008, when the Council passed the resolution to fund the Whistleblower program, recently renamed the "Fraud, Waste + Abuse Prevention Program", many steps needed to occur to implement a solid program with policies, procedures and standards in place. The attached presentation outlines those steps. The Program was designed to conform to United States Government Accountability Office (GAO) Government Auditing Standards, Certified Fraud Examiners standards as well as general best practices. Specific highlights of the Program's essential components are:

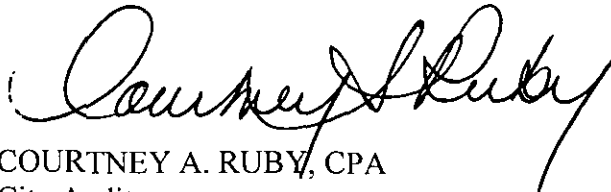
- **Confidentiality:**
On January 1, 2009 the Whistleblower Protection Act (AB2001) sponsored by the City Auditor went into effect as state law. This law allows the identity of whistleblowers to remain confidential, therefore reducing the necessity to make anonymous claims.
- **Protection from Retaliation:**
Oakland Whistleblower Protection Ordinance (Oakland Municipal Code Chapter 2.38) enacted in September 2009 protects all city government employees who act as Whistleblowers from retaliation through the establishment of an administrative process that includes investigations by the City Auditor.

- **Confidential Reporting:**
One of the nationally recognized leaders in the industry, EthicsPoint, was contracted in December 2008 to provide a secure hotline and website that allows individuals to make reports anonymously to a live operator or complete an online form 24 hours a day/7days a week. Reports are transmitted to the City Auditor via a secure network.
- **Professional, Competent Staff:**
In April 2009, Sharon Ball was selected as the FW+A Prevention Program Manager. Sharon has more than 35 years of auditing, investigation and program management experience in both the public and private sector. She was formerly an auditor for the U.S. Government Accountability Office and is currently in the process of becoming a Certified Fraud Examiner (CFE).

It is important to recognize the City's leadership for having the foresight to put in place a Program that provides a safe place for employees to voice their concerns of potential wrongdoing. The mere existence of a hotline serves to not only detect and disclose – but to deter acts of fraud, waste and abuse. And in our post-ENRON world, hotlines are becoming the norm, not the exception. In fact, the Sarbanes-Oxley (SOX) Act of 2002 forever changed the way that public companies approached fraud, waste and abuse. One SOX requirement is for all public companies to implement a formal reporting mechanism, such as a hotline, to receive reports of fraudulent and inappropriate activity. The City now stands in good company – with thousands of organizations world-wide working to implement effective systems of anti-fraud controls.

In closing, the Office of the City Auditor is mounting a public outreach campaign as our next step in preventing fraud, waste and abuse. In the next several weeks, posters will be distributed and a public service announcement will run on KTOP. The outreach campaign is a critical component to ensure employees and the public know how to safely report incidents of fraud, waste and abuse. I encourage each Councilmember to reach out to your constituents in your newsletters, websites and public forums to inform them of the Fraud, Waste + Abuse Prevention Program. **Together with the Fraud, Waste + Abuse Prevention Program, we are standing up to protect our City, empower our employees and reassure our citizens.**

Respectfully submitted,



COURTNEY A. RUBY, CPA
City Auditor

**STAND
FOR OUR
CITY UP**



**Fraud, Waste + Abuse
Prevention Program**
of the Oakland City Auditor

HOTLINE: 888-329-6390

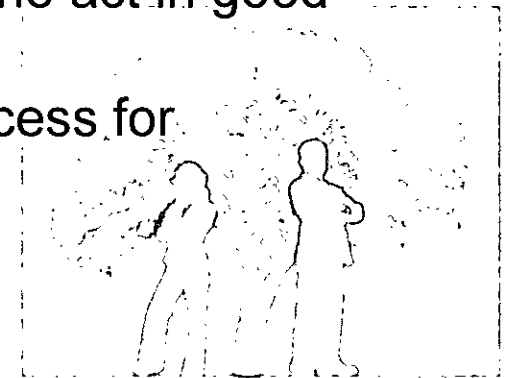
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September 22, 2009
Oakland City Council Meeting

FW+A Prevention Program

State Law & Local Ordinance

- Municipal Whistleblower Protection Act
 - Protects the identity of employees and citizens who report violations
 - Mandates the confidentiality of the process – the reporter, the investigation and the results
- Oakland Whistleblower Ordinance
 - Prohibits retaliation against employees who act in good faith as whistleblowers
 - Provides an administrative complaint process for employees

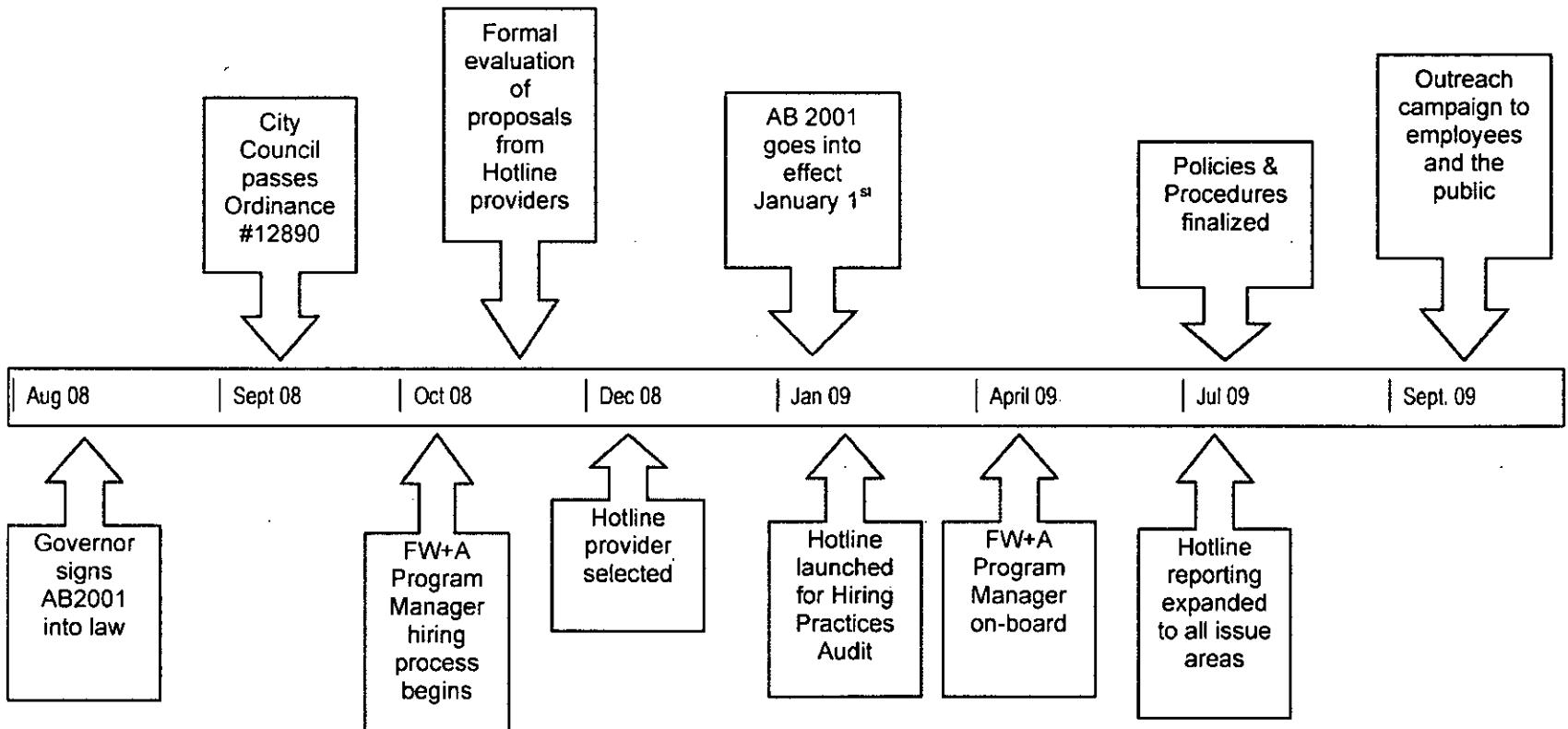


FW+A Prevention Program Objectives

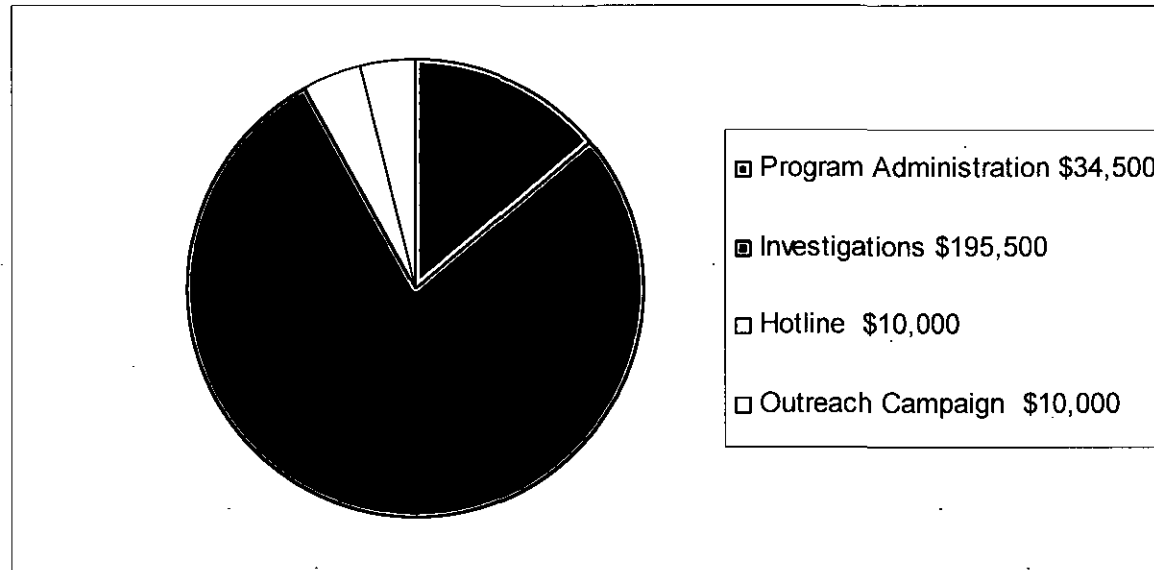
- Identify and stop losses of city resources and act as a deterrent to fraud, waste and abuse
- Provide a safe method for employees and the public to report suspected fraud, waste and abuse
- Protect employees from retaliation
- Ensure transparency, accountability and integrity in Oakland's government



FW+A Prevention Program Time Line

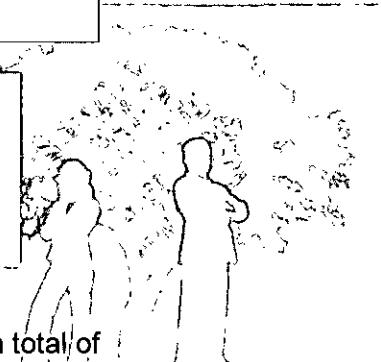


FW+A Prevention Program Annual Approved Funding



FY 2008-2009
Used as of 6/30/09
FY 2009-10 Carry Forward

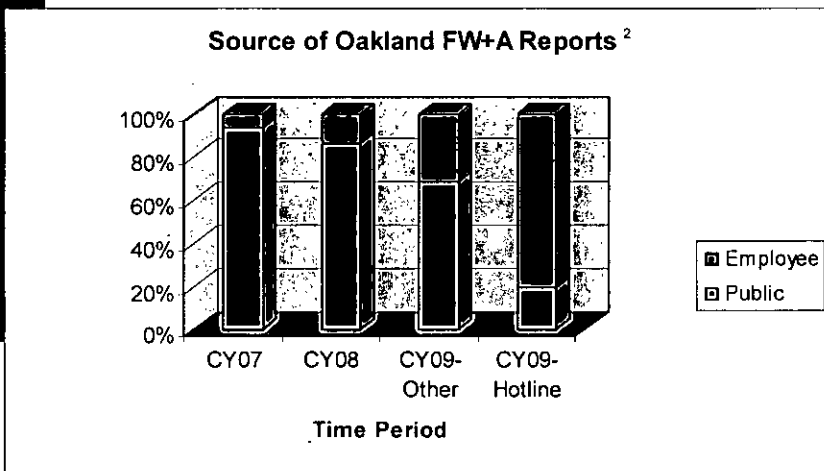
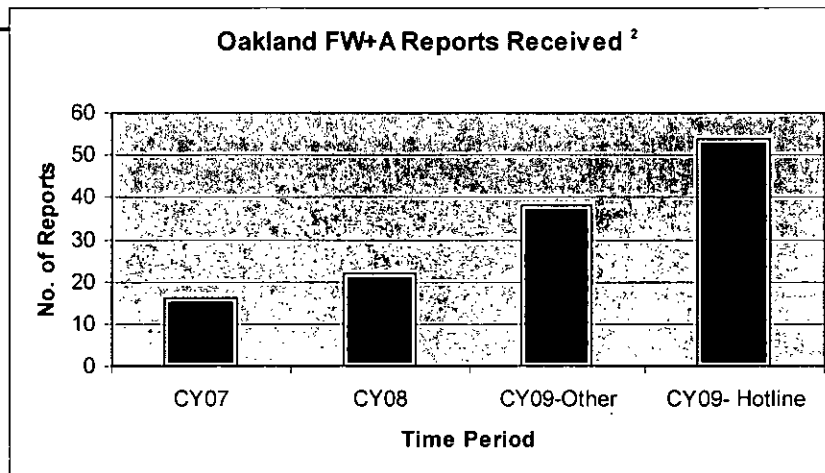
\$250,000
\$39,500
\$210,500



NOTE: On September 16th, 2008, the Oakland City Council passed Resolution #81551 authorizing a total of \$500,000 for Fiscal Years 2008-09 and 2009-10. In June 2009, the City Auditor requested that the unspent funds of \$210,500 be carried forward.

FW+A Prevention Program STATS

ACFE 2008 Report to the Nation¹ found tips are the most effective means of detecting fraud. In the Government sector **50%** of the known frauds were detected initially through tips.



The ACFE Report also documented **58%** of tips originate from employees



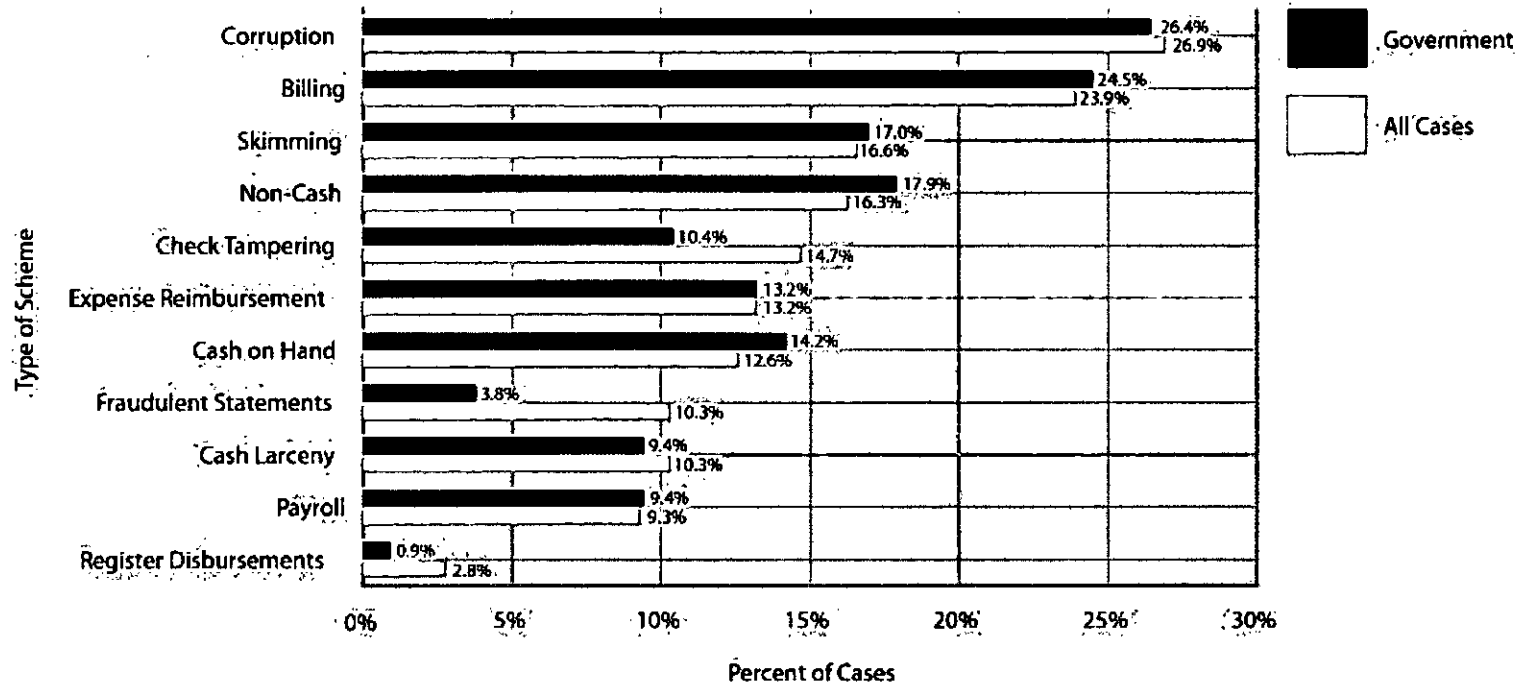
¹ The Association of Certified Fraud Examiners' *Report to the Nation* is considered the most authoritative statistical resource available on occupational fraud

² Other = not submitted through the Hotline Hotline = EthicsPoint

FW+A Prevention Program STATS

Occupational Fraud Schemes in Government and Public Administration (106 cases)

12



¹²The sum of percentages in this chart exceeds 100 percent because several cases involved multiple schemes from more than one category.

SOURCE: AFCE 2008 Report to the Nation

FW+A Prevention Program

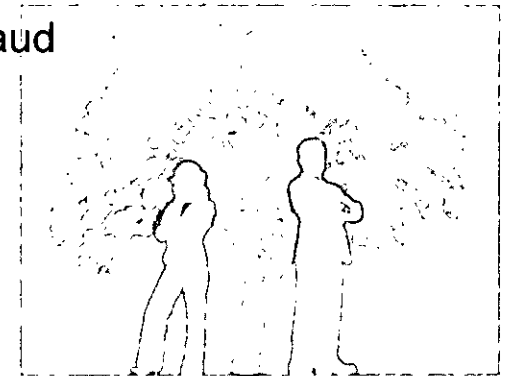
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What to Report:

- Theft of City resources
- Record falsification
- Intentional misuse of City property or equipment
- Payroll or timekeeping fraud
- Kickbacks or bribes
- Gross disregard of policy and procedural controls
- Contractor fraud
- Utilizing City property for personal use
- Gross mismanagement of resources
- Accounting irregularities

What NOT to Report:

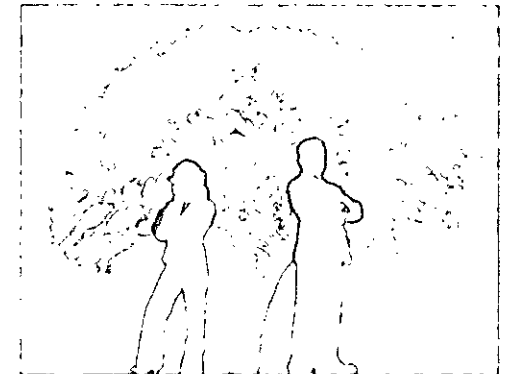
- Complaints regarding discrimination
- Employee grievances
- City campaign and lobbying violations
- Conflict of Interest issues
- Welfare fraud
- Medi-Cal Fraud



FW+A Prevention Program

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- The City Auditor has contracted with **EthicsPoint**, an independent vendor, to provide a secure server and trained intake specialists
- EthicsPoint can be accessed by telephone or the Internet
 - **888-329-6390**
 - **www.oaklandauditor.com**



FW+A Prevention Program

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Oakland City Auditor
Courtney A. Ruby

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Estimados amigos 歡迎光臨

Dear Oaklanders,

I'm proud to be your elected City Auditor, working for and reporting to the citizens of this City. I am committed to ensuring transparency, accountability and integrity in the service of Oakland taxpayers.

As the citizen's watchdog, my job is to shine a light on what's working - and what's not - by asking straightforward questions about your city government's performance.

I'm here to be your eyes and ears inside City Hall. But I also need to hear from you. Please use this website to communicate with our office, share your concerns and tell us what you think. Together we can make Oakland the best it can be.

Sincerely,
Courtney A. Ruby, CPA

NEWS & HIGHLIGHTS

Measure K 2.5% Set-Aside Performance Audit
The performance audit addressing the City's calculation of the voter-

Performance Audit of the Public Works Agency
Read the 500+ page report with more than 200 recommendations for

Performance Audit of Grant Administration for Measure Y
Grant selection, management, monitoring and evaluation needs

SIGN UP FOR EMAIL UPDATES
Email:

AUDITS IN PROGRESS
Campaign Public Financing
City Hiring Practices
Residential Parking Permits

SUBMIT A COMPLAINT

Fraud, Waste + Abuse Prevention Program of the Oakland City Auditor

HOTLINE: 888-329-6390

VIDEOS
Auditor Ruby addresses City Council cuts

Read www.oaklandauditor.com

Office of the City Auditor San Francisco - The Press City Council Building Oakland PowerPoint

FW+A Prevention Program

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Enter a name or number

EthicsPoint - City of Oakland - Mozilla Firefox

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https://secure.ethicspoint.com/domain/media/en/gui/Z3089/index.html

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Attention! This web page is hosted on an EthicsPoint secured server and is not part of the City of Oakland web site.

Report Online

Report by Phone:
1-888-329-6390

EthicsPoint is not a 911 emergency service.


Do not use this site to report events presenting an immediate threat to life or property.

Follow-up on a Report

HOSTED ON AN **ethics-point** SECURED SERVER

Stop Fraud, Waste & Abuse

HOTLINE: 888-329-6390



The Oakland City Auditor needs your help to ensure accountability, integrity, fairness and transparency in City government. All reports can be made confidentially and anonymously. You also have the choice to give your name and contact information. You can help by reporting examples of the following:

- Theft of City resources
- Record falsification
- Intentional misuse of City property or equipment
- Payroll or timekeeping fraud
- Kickbacks or bribes
- Gross disregard of policy and procedural controls
- Contractor fraud
- Utilizing City property for personal use
- Gross mismanagement of resources
- Accounting irregularities

To file a complaint, you may call the HOTLINE or select the "Report Online" link at the left.

When you call or submit your information through the website, provide as much detail as possible including: who, what, when, where, and how. Be as descriptive as possible: include dates, names, location, amounts and witnesses. Provide documentation to substantiate your complaint.

After you complete your report you will be assigned a unique code called a "report key." Write down your report key and password and keep them in a safe place. After 5-6 business days, you are encouraged to use your report key and password to check your report for feedback or questions from the City Auditor.

Your report is immediately sent to the City Auditor's Office where we will review all reports and take appropriate action. At every step of this process you can be assured that your

Done

secure.ethicspoint.com

12:58 PM

FW+A Prevention Program

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ethicspoint You are now in an EthicsPoint Secure Area | [File a Report](#)

You are currently in the confidential and secure reporting structure of EthicsPoint. Below are the choices available to you. Please click on the arrow () to select the type of report you would like to make.

City of Oakland	
Accounting and Auditing Matters	The unethical systematic recording and analysis of the business and financial transactions associated with generally accepted accounting practices. (Examples include: misstatement of revenues, misstatement of expenses, misstatement of assets, misapplications of GAAP principles, wrongful transactions.)
Confidentiality and Misappropriation	Confidentiality refers to the protection of the Company's and our customer's non-public information and use of such information only for legitimate business purposes. Misappropriation refers to the unauthorized or improper use of a third party's intellectual property rights, including patents, trademarks, copyrights and trade secrets.
Data Privacy	Refers to the technical, contractual, administrative and physical steps taken by the Company to protect against unauthorized access to and disclosure of personally identifiable data of employees and customers and other third parties that we possess.
Disclosure of Confidential Information	Unauthorized and unlawful disclosure of corporately owned intellectual property or trade secrets, as well as employee, customer or consumer information, marketing and other corporate data bases, marketing plans, business proposals and strategies.
Embezzlement	To appropriate (as property entrusted to one's care) fraudulently to one's own use. (Examples include: bookkeeping errors, misapplication of funds, and mishandling of cash)
Environmental Protection, Health or Safety Law	Violation of any environmental law, regulation, corporate policy or procedure with respect to the handling and disposal of hazardous materials or the health and safety of other individuals.
Falsification of Contracts, Reports or Records	Falsification of records consists of altering, fabricating, falsifying, or forging all or any part of a document, contract or record for the purpose of gaining an advantage, or misrepresenting the value of the document, contract or record.
Hiring Irregularities	Evidence of personnel decisions being based on criteria other than an applicant's merit or qualifications.
Improper Supplier or Contractor Activity	Supplier or contractor activity in violation of corporate policies and procedures; improper supplier or contractor selection based on personal gain, improper negotiation or diversion of contract awards.
Misconduct or Inappropriate Behavior	Intentional wrongdoing; specifically, deliberate violation of a law or standard.
Misuse of Assets or Services	Use of Company resources or equipment without permission for non-business reasons.
Theft	The act of stealing; specifically, the felonious taking and removing of personal property with intent to deprive the rightful owner of it.

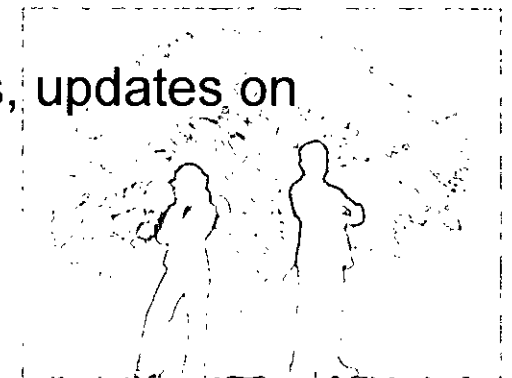
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FW+A Prevention Program

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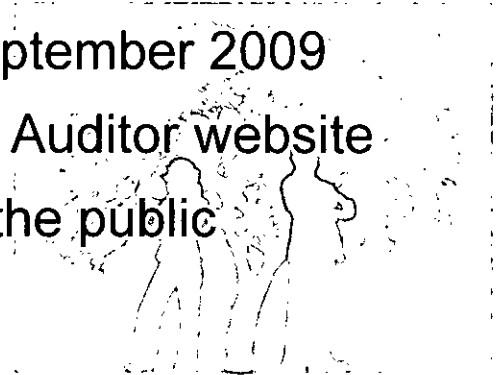
- EthicsPoint assigns a unique code called a "report key" to the reporter
- Reporter uses the report key and password to check their report for feedback or questions from the City Auditor
- Reporters are reminded discussion of their complaint with others may jeopardize their confidentiality and affect the investigation
- To preserve the confidentiality of the process, updates on investigations are not provided



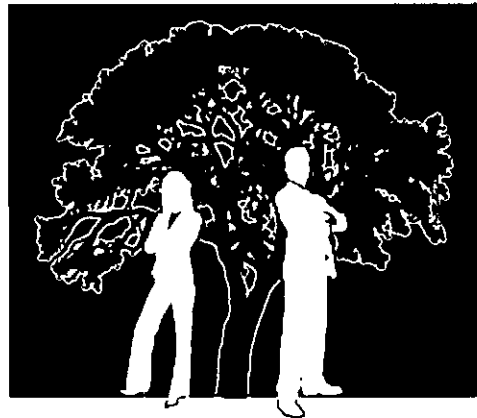
FW+A Prevention Program

Next Steps

- On-going Commitment of Oakland's leadership
 - Promote the FW+A Prevention Program
 - Ethics Training, including fraud prevention, for elected officials and all supervisors under development
- Maintain EthicsPoint platform for confidential, safe and accessible reporting process
- FW+A prevention education for all employees
 - Outreach campaign being launched in September 2009
 - *"Frequently Asked Questions"* on the City Auditor website
- Semi-Annual reports to the City Council and the public



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