



King County

Whistleblower Protection Program

King County Ombudsman's Office

Whistleblower Protection Program Annual Report
January 1 to December 31, 2013

March 31, 2014

Background

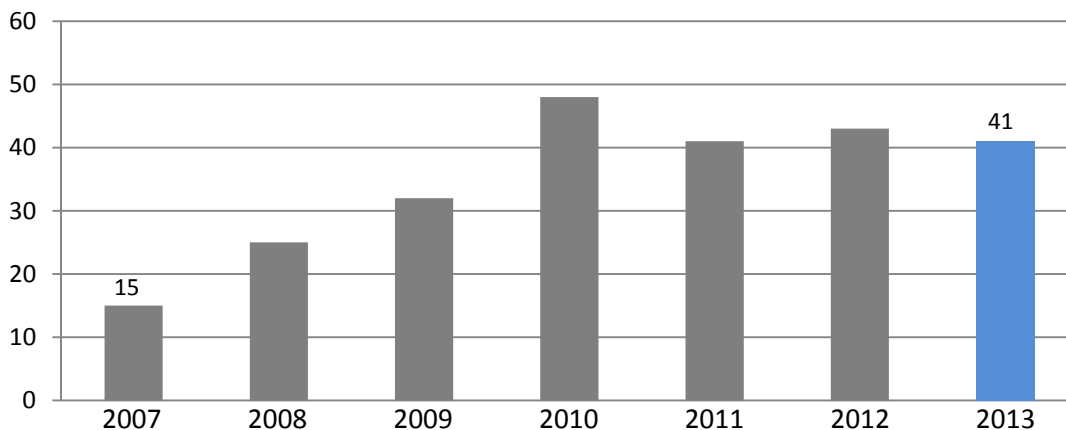
The Ombudsman's Office is the primary recipient of whistleblower complaints from King County employees (KCC 3.42). We focus on helping employees determine whether their concerns can be resolved informally, or whether an investigation resulting in formal findings is warranted. We investigate allegations of wrongdoing and may issue findings based on investigations. We also lead problem solving efforts in appropriate cases, to resolve complaints fairly.

Whistleblowers & the Public Trust

The Whistleblower Protection Code encourages employees with knowledge of major wrongdoing to report it, so that problems can be identified and fixed, and county government can operate more efficiently. The Code provides a roadmap to employees for reporting improper practices, as well as strong protections for employee whistleblowers and witnesses. The Code's strong whistleblower protections demonstrate King County's commitment to supporting an ethical and productive workplace. These efforts align with the Countywide Strategic Plan's key goals, including Service Excellence, Financial Stewardship, and a Quality Workforce.

Our 2013 Whistleblower Protection Program Annual Report shows a stable number of whistleblower issues received by the Ombudsman's Office. These results are consistent with our expectations as King County's budget continues to stabilize following several years of major cuts including layoffs. As King County government continues adjusting to the need to provide vital services more efficiently, we expect that employee whistleblower protections will continue to be important for building and maintaining employee confidence, and public trust in county government.

Whistleblower Cases 2007-2013



2013 Whistleblower Cases by Department

The table below lists whistleblower and whistleblower retaliation cases processed by the Ombudsman's Office in 2013. Departments not listed in the table had no Ombudsman whistleblower cases during 2013.

Department	Carried Forward into 2013	Cases Opened in 2013	Cases Closed in 2013	Carried Forward into 2014
Adult & Juvenile Detention	5	2	7	0
Assessments	0	1	1	0
Community & Human Service	2	4	4	2
Elections	0	1	1	0
Executive Services	2	15	15	2
Natural Resources & Parks	3	0	3	0
Ombudsman	0	6	5	1
Public Health	1	3	3	1
Transportation	0	6	6	0
Non-Jurisdictional	0	3	3	0
Total	13	41	48	6

King County employees also may opt to file whistleblower complaints directly with their departments. Since 2010, departments report the results of those cases to the Ombudsman. During 2013, we began to standardize reporting methodologies among departments, which is challenging due to various factors including internal tracking systems that pre-date the reporting requirement, and alternative practices among some employee workgroups. For 2013, four departments reported receiving whistleblower complaints that had not been processed by the Ombudsman's Office.

The Department of Transportation reported one complaint. The Department of Executive Services reported two complaints. The Department of Adult and Juvenile Detention reported eleven complaints, two of which have been sustained. The Sheriff's Office reported two complaints. The Ombudsman's Office has reviewed summaries of these cases and discussed them with departmental liaisons.

2013 Whistleblower Inquiries and Complaints by Type

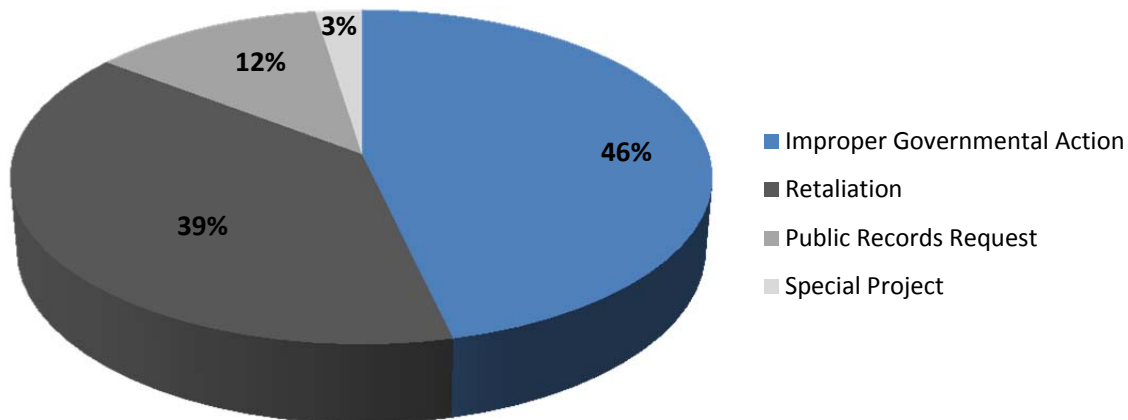
The whistleblower code encourages county employees to report what they believe to be illegal or serious wrongdoing, called “***improper governmental action***”. This generally means:

- illegal conduct;
- abuse of authority;
- gross mismanagement;
- substantial and specific danger to public health or safety;
- gross waste of funds; or,
- silencing scientific or technical findings.

Retaliation against an employee who is, or is perceived to be, a whistleblower is prohibited. The whistleblower code defines retaliation as any unwarranted, negative change in employment status, terms or conditions, and includes threats or attempts, as well as behaving in a hostile manner toward an employee, encouraging others to do so, or not preventing others from doing so.

Our office also handles ***public records requests*** for whistleblower and retaliation cases.

Whistleblower Contacts by Type for 2013



Action on Complaints

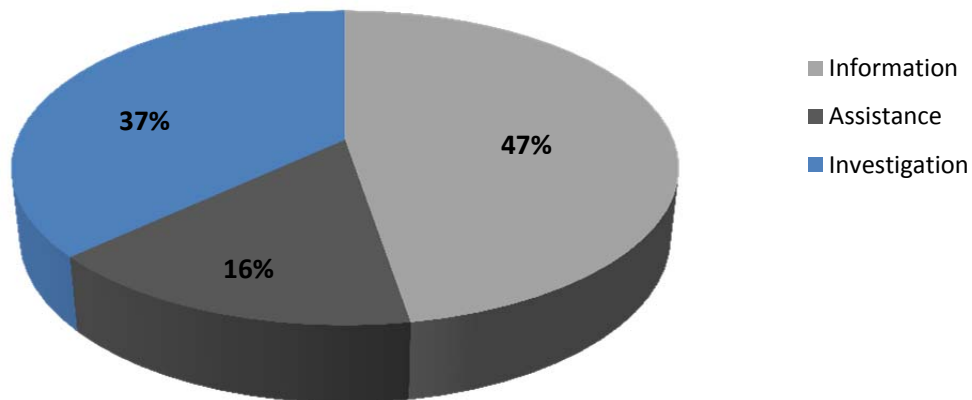
In 2012, the Ombudsman's Office received a total of 43 contacts concerning whistleblower and retaliation matters, in addition to cases carried forward and closed in 2011. These contacts resulted in one of three classifications:

Information: Requests for information or advice which may result in referral.

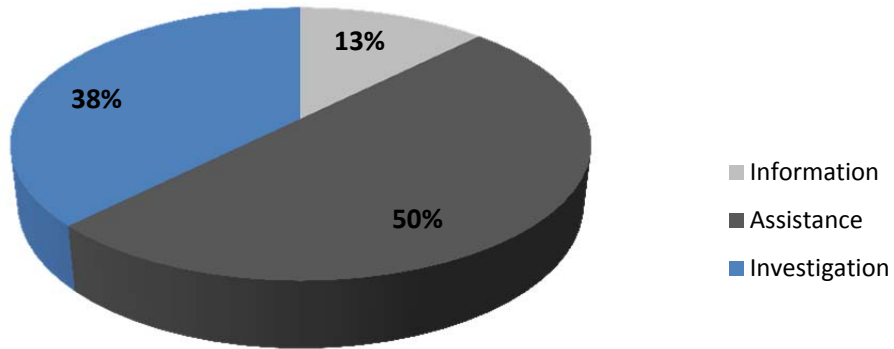
Assistance: Issues resolved through staff-level inquiry, facilitation, counseling or coaching.

Investigation: Complaints that are not resolvable through assistance and are thoroughly investigated. Investigations involve independent evidence collection and analysis, including relevant records, witness testimony, laws, policies, and procedures. The Ombudsman makes formal findings, may develop recommendations, and follows up to ensure appropriate departmental responses.

Resolution of Improper Governmental Action Complaints for 2013



Resolution of Retaliation Complaints for 2013



Ombudsman’s Office staff worked with the Office of Alternative Dispute Resolution in 2013, to design a **mediation** protocol for whistleblower cases. Under the new protocol, Ombudsman’s Office staff may participate actively in confidential mediation sessions, and the Ombudsman must approve or disapprove settlement agreements between whistleblower complainants and county departments. This ensures that settlement terms satisfy the public interest, in addition to institutional and personal interests. Mediated settlements approved by the Ombudsman may be closed without further investigation. Four cases charted within the “Assistance” category above, were mediated with the participation of the Ombudsman’s Office.

Summarized Details of Select 2013 Cases

The nature and circumstances of whistleblower complaints varies widely. These selected case summaries offer a sample of the range of allegations and resolutions.

Complaint	Resolution
Alleged gross mismanagement of county’s investment pool operations within the Department of Executive Services.	Employee alleged certain Investment Pool trades were forced prematurely to meet cash payments due to failure to use cash forecasting; underutilization of analytical software and the hiring of a credit analyst when there was no credit to analyze; failure to update policy and procedure manuals; and failure to institute an annual audit by an independent investment specialist. Ombudsman contracted with an independent public finance expert who thoroughly investigated the allegations and found no improper governmental action had occurred. We issued a final report to the complaining employee, the agency, individual respondents, the County Executive and County Council.

<p>Alleged fear of future retaliation after reporting stolen funds within the Department of Transportation.</p>	<p>Ombudsman staff conducted detailed intake with the concerned employee. The Department had already terminated the potential retaliator. Thus, there was no need for a formal complaint. However, Ombudsman staff educated the employee about county anti-retaliation protections, and offered further assistance if concerns arise.</p>
<p>Alleged retaliation for reporting violations of departmental parking rules within the Department of Adult and Juvenile Detention.</p>	<p>After researching the facts and the applicable laws and policies, Ombudsman staff determined that reporting violations of departmental parking rules is not protected conduct under the Whistleblower Protection Code, which encourages and protects reporting of major wrongdoing. As such, we would be unable to find whistleblower retaliation. We followed up on the alleged parking violations and found that the department handled the matter appropriately and the conduct in question had stopped. We encouraged the reporting employee to work through their guild and management channels, and we followed up with senior department managers at the employee's request.</p>
<p>Alleged inappropriate hiring practices and job notifications in their workgroup within the Department of Natural Resources and Parks.</p>	<p>Ombudsman staff researched applicable laws, policies, and practices, interviewed appropriate agency personnel, and analyzed agency documentation of the hiring processes at issue. We found no indication of wrongdoing by DNRP. We explained the basis of our finding in detail to the complaining employee, who did not dispute the finding but expressed relief at the outcome.</p>
<p>Alleged retaliation for reporting ongoing challenges with certain billing systems within the Department of Community and Human Services.</p>	<p>Ombudsman's staff reviewed materials submitted by the employee and division managers. The parties were willing to try confidential mediation in an effort to resolve the complaint without formal investigation. Ombudsman's staff attended the mediation as a resource. The employee and the department reached agreement and the Ombudsman closed the complaint file. The Ombudsman's Office is continuing to monitor implementation of the agreement, and the department's progress on improving the billing system at issue.</p>

<p>Alleged an improper internal promotion process was used within the Department of Elections.</p>	<p>Ombudsman staff reviewed information on the process at issue, and researched proper hiring practices. Based on this initial review, we requested that the department review the issue. The department agreed that the hiring was improper, and on its own initiative decided to re-post the position.</p>
<p>Alleged problems with implementation of previous mediation agreement that resolved a retaliation complaint within the Department of Transportation.</p>	<p>Ombudsman staff worked extensively with the employee and other county service agencies following agreement in mediation, to address ongoing workplace conflict. Mediation was convened to allow resolution of outstanding issues.</p>

Ombudsman Resource Issues

The 2009 whistleblower code amendments vested jurisdiction with the Ombudsman’s Office to receive and investigate whistleblower retaliation cases. This authority has allowed our office to develop a consistent and fair approach in how these cases are addressed county-wide, and allows us to track departmental accountability and provide a clear source for information. This benefits both the employees who report these cases, as well as our County agencies and taxpayers. The code amendments also added mediation as an alternative way to resolve these cases where appropriate, which has allowed us to draw on the deep expertise of our staff in utilizing common-sense, problem solving approaches in conjunction with our investigative powers.

While whistleblower cases continue to comprise a small percentage of more than 2,000 inquiries the Ombudsman’s Office handles each year, more than half of the employee whistleblower cases that come to our office are now retaliation cases. Adding retaliation cases to the Ombudsman’s portfolio has required a strategic shift in resources to handle these cases. Retaliation cases are high stakes both for reporting employees and for the County, and whistleblower allegations involve matters that could significantly and substantially threaten public health or safety, taxpayers’ dollars, or even the mission of the agencies involved. These cases are also very time-intensive, typically requiring a large number of staff hours. We will continue to monitor the impact on the office’s workload.

Additionally, beginning in 2012, we experienced a rise in the number of public records requests for case files dealing with whistleblower and retaliation issues we have handled. As many of those cases have large documentary records, including sensitive documents that must be withheld under state law, responding quickly and fully to these requests takes significant amounts of staff time.

Employee Feedback

King County offers meaningful whistleblower protections that are strong compared with similar laws nationally. The scope of these protections can nevertheless be misunderstood in certain situations, and we work hard to educate complainants and departments about their options for both investigation and informal problem-solving. The Ombudsman's Office is committed to ensuring that county employees and managers understand their rights and responsibilities under the whistleblower code, and to resolving these cases fairly and efficiently.

Feedback from employees indicated that most who contacted the Ombudsman's Office about whistleblower concerns were grateful for our assistance in explaining our jurisdiction, providing informal analysis of their issues, describing where whistleblower protection fits within the universe of options available to address their concerns, and counseling and coaching regarding their particular situations.