

Review of LA Times Article –
Whistle-Blowers Say California State University System
Allows Retaliation Against Them

Scope:

We reviewed the article in the LA Times: *Whistle-Blowers Say CSU System Allows Retaliation Against Them*, to determine if the Orange County Fraud Hotline has the same issues/concerns identified with the CSU System Fraud Hotline. The Article identified the following issues/concerns which we will address:

1. The California State University Hotline System failed to protect workers from retaliation after they reported wrongdoing.

Orange County Internal Audit Department Fraud Hotline Process:

- A. The IAD Fraud Hotline webpage states: County employees wishing to report complaints are protected under California Labor Code 1102.5 and 1106 – the New Whistleblower Law; however, if it is determined that a complaint was filed by a County employee in bad faith, said employee may be subject to appropriate disciplinary action. The California State Attorney General’s Whistleblower Hotline number is (800) 952-5225.
 - B. The Orange County Fraud Hotline poster that is posted at every agency/department also contains the same clear language.
 - C. A required poster at all agencies/departments is “Whistleblowers are Protected”. This poster discusses: Who is protected; What is a whistleblower; What protections are afforded to whistleblowers; and How to report improper acts. Note: If there are improper acts to report, the California State Attorney General’s Whistleblower Hotline phone number is provided.
2. The California State University Hotline System operates without direct oversight.

Orange County Internal Audit Department Fraud Hotline Process:

- A. The IAD issues at least annually a report titled “Orange County Fraud Hotline Activity” to the Members, Board of Supervisors, with copies to Members, Audit Oversight Committee, CEO, Grand Jury, and Clerk of the Board of Supervisors.
- B. The IAD in its Audit Plan budgets the hours for managing the Orange County Fraud Hotline. The Audit Plan is approved by the AOC and copies are provided to the BOS.
- C. The IAD in its Business Plan in general terms states the Fraud Hotline activity for the prior year.

3. The California State University Hotline System operates without a separate budget.

Orange County Internal Audit Department Fraud Hotline Process:

- A. The IAD in its Audit Plan budgets the hours for managing the Orange County Fraud Hotline. The Audit Plan is approved by the AOC and copies are provided to the BOS.

Whistle-Blowers Say CSU System Allows Retaliation Against Them

By STUART SILVERSTEIN
Times Staff Writer

Seven California State University current and former employees, including two professors who once headed their departments, filed a complaint Tuesday contending that the university system's whistle-blower program repeatedly has failed to protect workers from retaliation after they reported wrongdoing.

The employee group, in its filing with the California Bureau of State Audits, also said the CSU program has spent millions of dollars on investigations, litigation and legal settlements while operating without direct oversight or even a separate budget. The complaint seeks "to blow the whistle on the CSU whistle-blower program."

All of the seven current and former employees say they endured workplace retaliation — including demotions and ostracism — after bringing to light improper activities on various campuses. Most have lodged formal complaints of retaliation and separately have filed lawsuits against the university system.

"The CSU whistle-blower program is fraught with the very problems that it is supposed to expose and eliminate: incompetence, bad faith and gross mismanagement of taxpayer funds," the complaint asserts.

CSU officials, who have not yet received the complaint, maintain that the university's whistle-blower administrators fairly and successfully manage competing demands.

These officials do "an excellent job of balancing the interest of the public to have efficient and ethical public entities, the rights of individuals to 'blow the whistle' and not be retaliated against, and the right of all employees to have substantive and procedural due process when they are accused of wrongdoing," CSU said in a written statement.

Spearheading the employee group is Maria Carreira, an associate professor of Spanish who has taught at Cal State Long Beach since 1991.

Carreira, scheduled to speak today as a member of the public before the Cal State Board of Trustees, filed a 99-page whistle-blower report in January 2003. It alleged, among many other things, that a previous department head allowed a family affair to teach an undergraduate Italian class while permitting a league to receive teaching credit for the work.

Three months later, a CSU investigator confirmed, copies of Carreira's supposedly confidential report, with critical comments written on them, were stuffed into the mailboxes of department faculty. The report was accompanied by letters and a memo critical of Carreira — all distributed, the CSU investigator said, by the then-department chairperson. One accused Carreira of creating a "poisonous atmosphere."

Carreira said that incident, and other alleged retaliation that she endured, show problems with the whistle-blower program. "I either want the system to be reformed or I want people to know what's going to happen to them," she said.

At issue is a program set up in 1997 ostensibly to provide a safe way for CSU's 40,000-plus employees to report on "improper governmental activities," such as fraud or waste, under the California

Whistleblower Protection Act. The program also enables whistle-blowers to file retaliation claims and win compensation if, despite the safeguards, they suffer job-related punishment.

Maria Santos, who handles whistle-blower cases as CSU's senior director for employee relations, said the university system "does a good job of encouraging our employees to come forward with reports of improper activities." She characterized Carreira as being unrealistic.

"She wants an internal advocate that will quote 'go to bat' for people who report improper activities, and the reality is that for every report of improper activities that one employee makes, another employee is being accused of an improper activity. So our balance is in between that," Santos said.

Officials with CSU added that they wrote Carreira a check for \$5,000 as partial compensation for the retaliation — a proposed payment that the professor has declined. Carreira, who plans to sue the university, characterized the \$5,000 offer as no match for the damage caused to her reputation and the time and money she has spent fighting CSU.

University officials acknowledged that some of the Carreira group's points were accurate. In particular, they said the whistle-

blower operation at Cal State's headquarters in Long Beach has no dedicated budget and does not provide a regular accounting of what it spends or the outcome of its investigations.

"It's very hard for us to quantify how much are we spending responding to one piece of what are overall responsibility is," said Santos, who with a staff of 4½ workers also supervises such areas as union grievances and discrimination complaints.

Though many whistle-blower complaints are handled at the system's 23 campuses, claims of retaliation are directed to CSU headquarters. In all, Santos said, she has recorded 38 such complaints, including Carreira's case, which is one of the three in which a finding of retaliation was found.

The Bureau of State Audits, which received the complaint from the employee group, conducts investigations and issues public reports, but has no enforcement authority. However, it can make referrals to enforcement agencies and prosecutors.

Carreira is joined in her complaint by Richard Runyon, a faculty member at Cal State Long Beach for 38 years. He is suing the university, saying he was unjustifiably removed as chairman of the department of finance, real estate and law in April 2004, after 13 years though he remains a professor.



Maria Carreira leads the group filing complaint.

The ouster, Runyon has contended, came as retaliation after he raised objections about his dean's alleged "excessive absence" and disregard for student complaints of faculty mistreatment, among other issues. CSU's whistle-blower officials turned down Runyon's claim of retaliation, based partly on an investigator's finding that he was removed as chairman because he failed to meet a deadline for completing a curriculum proposal.

Another member of the group suing his campus is David Ohton, a strength coach at San Diego State. He has said he was approached by a CSU auditor about alleged problems in the school's athletic department.

After providing information that reportedly contributed to the departure of the school's then-athletic director, Ohton was removed in August 2003 from his position as a strength coach with the football team after 18 years in that role, though he was retained to work elsewhere in the athletic program.

CSU determined later that year that Ohton had suffered some retaliation. But it also found that his removal as a strength coach was made for legitimate reasons.

The university system has acknowledged spending \$727,000 in its ongoing legal battle with Ohton — an amount it blames on the aggressive tactics of his lawyer. CSU was turned down by a judge in its attempt to recover that money from Ohton, but was awarded slightly over \$60,000 in legal costs in a previous round of the battle.

Whistleblowers are Protected

It is the public policy of the State of California to encourage employees to notify an appropriate government or law enforcement agency when they have reason to believe their employer is violating a state or federal statute, or violating or not complying with a state or federal rule or regulation.

Who is protected?

Pursuant to California Labor Code Section 1102.5, employees are the protected class of individuals. "Employee" means any person employed by an employer, private or public, including, but not limited to, individuals employed by the state or any subdivision thereof, any county, city, city and county, including any charter city or county, and any school district, community college district, municipal or public corporation, political subdivision, or the University of California. [California Labor Code Section 1106]

What is a whistleblower?

A "whistleblower" is an employee who discloses information to a government or law enforcement agency where the employee has reasonable cause to believe that the information discloses:

1. A violation of a state or federal statute,
2. A violation or noncompliance with a state or federal rule or regulation, or
3. With reference to employee safety or health, unsafe working conditions or work practices in the employee's employment or place of employment.

What protections are afforded to whistleblowers?

1. An employer may not make, adopt, or enforce any rule, regulation, or policy preventing an employee from being a whistleblower.

2. An employer may not retaliate against an employee who is a whistleblower.
3. An employer may not retaliate against an employee for refusing to participate in an activity that would result in a violation of a state or federal statute, or a violation or noncompliance with a state or federal rule or regulation.
4. An employer may not retaliate against an employee for having exercised his or her rights as a whistleblower in any former employment.

Under California Labor Code Section 98.6, if an employer retaliates against a whistleblower, the employer may be required to reinstate the employee's employment and work benefits, pay lost wages, and take other steps necessary to comply with the law.

How to report improper acts

If you have information regarding possible violations of state or federal statutes, rules, or regulations, or violations of fiduciary responsibility by a corporation or limited liability company to its shareholders, investors, or employees, **call the California State Attorney General's Whistleblower Hotline at 1-800-952-5225**. The Attorney General will refer your call to the appropriate government authority for review and possible investigation.

ORANGE COUNTY



FRAUD HOTLINE

Call us 24 hours a day,
7 days a week at

(714) 834-3608

To report possible misuse of county resources, theft or violation of county or state rules and regulations, call the Orange County Internal Audit Department. You may call anonymously.

Find us at www.ocgov.com/audit

Other Hotline Numbers:

Child Abuse.....	(714) 940-1000
Consumer Fraud.....	(714) 347-8706
County Safety Hazards.....	(714) 834-2817
County Worker's Compensation Fraud.....	(714) 834-2817
Welfare Fraud.....	(714) 347-8400
Medi-Cal Fraud.....	(800) 822-6222

The Orange County Fraud Hotline is intended for the use by County employees, the general public, or vendors reporting suspected waste, fraud, violations of County policy or misuse of County resources by vendors, contractors or County employees. County employees wishing to report complaints are protected under California Labor Code 1102.5 and 1106 – the New Whistleblower Law; however, if it is determined that a complaint was filed by a County employee in bad faith, said employee may be subject to appropriate disciplinary action. The California State Attorney General's Whistleblower Hotline number is 1-800-952-5225.



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AUDIT MANAGER

February 2006

TO: All Orange County Employees

FROM: Peter Hughes, Ph.D., CPA, Director of Internal Audit

SUBJECT: Orange County Fraud Hotline

The Orange County Internal Audit Department (IAD) established and manages the enhanced Orange County Fraud Hotline (OC Fraud Hotline) as part of its ongoing fraud detection and prevention effort.

The OC Fraud Hotline is intended for the use of County employees as a vehicle for reporting suspected fraud, misuse of County resources by vendors, contractors, or County employees, and significant violations of County policy. Fraud is an intentional act that results in the misstatement of financial records or theft of the County's assets. The misuse of County resources would include for example the use of a County computer to run an outside business.

The OC Fraud Hotline is available for calls twenty-four hours a day, seven days a week. The OC Fraud Hotline telephone number is **(714) 834-3608**. IAD staff monitors the telephone during business hours from 8 a.m. to 5 p.m. Callers can leave anonymous information or identify themselves during business hours and after hours. Callers can also choose to speak with our professional staff during business hours. The OC Fraud Hotline telephone system also provides the callers with a list of Hotline numbers for reporting frauds that are not handled by the OC Fraud Hotline such as Welfare Fraud. Also, we have provided an anonymous on-line option for reporting fraud. Please visit our website (www.ocgov.com/audit) for this option.

Whistleblower Protection

County employees wishing to report complaints are protected under California Labor Code 1102.5 and 1106 – the New Whistleblower Law; however, if it is determined that a complaint was filed by a County employee in bad faith, said employee may be subject to appropriate disciplinary action. The California State Attorney General's Whistleblower Hotline number is (800) 952-5225.

OTHER FRAUD HOTLINE PHONE NUMBERS

- Child Abuse, call (714) 940-1000
- Consumer Fraud, call (714) 347-8706
- County Workers' Compensation and Insurance Fraud, call (714) 834-2817
- County Safety Hazards, call (714) 834-2817
- Medi-Cal Fraud, call (800) 822-6222
- Welfare Fraud, call (714) 347-8400



INTERNAL AUDIT DEPARTMENT
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**ORANGE COUNTY
FRAUD HOTLINE ACTIVITY**

**For the Period
January 1, 2005 – December 31, 2005**

AUDIT NUMBER: 2503

REPORT DATE: February 17, 2006

Audit Director:	Peter Hughes, Ph.D., CPA
Deputy Director:	Eli Littner, CPA, CIA
Audit Manager:	Alan Marcum, MBA, CPA, CIA

Orange County Fraud Hotline Activity

For the Period January 1, 2005 – December 31, 2005

TABLE OF CONTENTS

Transmittal Letter..... i

Background..... 1

1. Statistical Summary 2

2. Cases Opened..... 3

3. Cases Closed 3

4. Update to IAD Response to 2003-2004 Grand Jury Report “County Fraud Hotline –
Does it Work?” 4



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Transmittal Letter

Audit No. 2503

February 17, 2006

TO: Members, Board of Supervisors

FROM: Peter Hughes, Ph.D., CPA, Director
Internal Audit Department

SUBJECT: Orange County Fraud Hotline Activity

We have completed our report concerning the operation of the Orange County Fraud Hotline. This report is for the period of January 1, 2005 through December 31, 2005. The attached report includes background information on the Hotline including the establishment, purpose, and the processing of Hotline calls and a statistical summary of Hotline activities for the period. In addition, we provided an update to our response to the recommendations in the 2003-2004 Grand Jury Report "County Fraud Hotline – Does it Work?"

We would like to acknowledge the courtesy and cooperation extended to us by the management of the various County agencies/departments during our Hotline process. As always, I remain available to answer any questions you may have. Please contact me directly or Eli Littner, Deputy Director at (714) 834-5899, or Alan Marcum, Audit Manager at (714) 834-4119 if we can be of assistance.

Attachments

cc: Members, Audit Oversight Committee
Thomas G. Mauk, County Executive Officer
Foreperson, Grand Jury
Darlene J. Bloom, Clerk of the Board of Supervisors

Internal Audit Department Orange County Fraud Hotline Activity

Background

The Orange County Internal Audit Department (IAD) established and runs the Orange County Fraud Hotline as part of its ongoing fraud detection and prevention effort. The Hotline was first established September 1, 1994, and after a short period of inactivity during the bankruptcy, was reinstated May 3, 1996, and enhanced and improved in December 2004. The establishment of a Hotline is a best business practice for both private and governmental entities.

The Hotline is intended for County employees, vendors, and the public to report suspected fraud, misuse of County resources by vendors, contractors, or County employees. Violations of County policy are also reported. Fraud is an intentional act that results in the misstatement of financial records or theft of the County's assets. The misuse of County resources would include for example the use of a County computer to run an outside business. In instances when non-County callers use the Hotline, their complaints are also processed.

The Hotline is available for calls twenty-four hours a day, seven days a week. IAD staff monitors the telephone during business hours. Callers can leave anonymous information or identify themselves during business hours and after hours, or can choose to speak with staff during business hours. The Hotline telephone system also provides the callers with a list of Hotline numbers for reporting frauds that are not handled by the County Fraud Hotline such as Welfare Fraud. Hotline reporting can also be made through our web page on the internet. We have created a "Virtual Hotline Form" where an individual can remain anonymous.

In processing the Hotline calls, the IAD staff prepares the Hotline Information Form which aides in the capturing of needed information, assigns a unique Hotline control number, and records the call in the Hotline Control Log. The staff person provides the completed Hotline Information Form to the Hotline Audit Manager. The Audit Manager reviews the specifics of the allegation and prepares a letter detailing the complaint. The IAD Director or Deputy Director reviews the information and a formal Action Request with all relevant information is routed directly to the agency/department head for immediate investigation. The agency/department heads to which cases are referred, are required to provide a written report of the investigative steps, the results of the investigation, and corrective action taken.

The Audit Manager along with the Director or Deputy Director, upon receipt of the written report from the agency/department head, reviews the report to determine if appropriate action was taken. Depending upon the facts of each allegation, IAD may conduct its own on-site visit and review. Typically the Director, Deputy Director or Manager will discuss with senior management the allegation and the status of the agency/departments investigation and determine a course of action for an IAD review. If the Director is satisfied with the investigation and results, the Hotline case is closed and a closeout letter is sent to the agency/department head.



In processing Hotline calls that are not handled and monitored by IAD such as Welfare Fraud and calls for non-County agencies, IAD refers the caller to the appropriate Hotline, e.g., Social Services Agency Welfare Fraud Hotline for their investigation. In these cases, IAD logs the calls in the Hotline Control Log, but IAD does not perform any review or monitoring.

In addition to IAD enhancing its website to assist anyone wishing to report fraud, other improvements include information on Whistleblower Protection and other Fraud Hotline phone numbers. In addition to IAD maintaining the Orange County Fraud Hotline, other agencies/departments maintain Hotlines. For examples, Social Services Agency maintains the Welfare and Child Abuse Hotlines, CEO/Risk Management maintains the Workers' Compensation and Insurance Fraud Hotlines, and the District Attorney maintains the Consumer Fraud and Economic Fraud Hotlines.

1. Statistical Summary

The Internal Audit Department received 17 calls during the period. These calls are categorized in **Table 1**.

Table 1 Allegations	
Actionable Calls	10
Referred and Informational Calls	7
Insufficient Information	0
Total	17



2. Cases Opened

Cases opened during the period concerned allegations of employee misconduct, e.g., one (1) caller alleged vendor over billing; one (1) alleged poor project management, and one (1) caller alleged inappropriate distribution of County assets. When allegations involve issues beyond the jurisdiction of the County of Orange, they are referred to appropriate non-County agencies. Hotline callers alleging welfare fraud were referred to the State Welfare Fraud Hotline for action. **Table 2** identifies complaint type and the total number of cases opened during this period.

Table 2 Cases Opened Type of Allegations	
Employee Misconduct	10
Welfare Fraud (Referred Out)	2
Non-County (Referred Out)	3
Information Requests (Referred to County Departments)	0
Referred to Sheriff-Coroner	1
Other	1
Total	17

3. Cases Closed

During the period 11 cases were finalized and closed. Two (2) of the cases were opened in 2004, and nine (9) cases were opened in 2005. As of December 31, 2005, one (1) case remains active. **Table 3** categorizes the 11 cases closed during this period.

Table 3 Cases Closed Reason for Closing	
Investigated by County agency/department - Allegation Substantiated	3
Investigated by County agency/department - Allegation Not-Substantiated	8
Insufficient Information	0
Total	11



Case Highlights

In the three (3) cases where the allegations were substantiated, one (1) dealt with an employee falsifying his mileage reimbursement reports; one (1) dealt with employees being reimbursed for mileage at a higher rate than the Memorandum of Understanding (MOU); and the last case dealt with the improper use of a revolving cash fund. In all three (3) cases, appropriate corrective action was taken.

4. **Update to IAD Response to 2003-2004 Grand Jury Report “County Fraud Hotline – Does it Work?”**

The Grand Jury report contained seven (7) recommendations on our Hotline process. The IAD has now completed implementing corrective action on all seven (7) of the recommendations.

Recommendation No. 1: Completed

We formalized, approved, and issued the Hotline operating procedures.

Recommendation No. 2: Completed

IAD finished working with CEO – Telephone/Network Related Service to ensure our Hotline telephone system for business hours provides detailed voice message instructions and information to the caller.

Recommendation No. 3: Completed

IAD finished working with CEO – Telephone/Network Related Service to ensure our Hotline telephone system is available for non-business hours and provides detailed voice message instructions and information to the caller..

Recommendation No. 4: Completed

We updated the list of reference hotline phone numbers.

Recommendation No. 5: Completed

A new Fraud Hotline Poster was completed and distributed.

Recommendation No. 6: Completed

IAD finished working with CEO/IT to enhance the IAD web page to include **anonymous** On-Line Fraud Reporting. In addition, information was added to the web page on Whistleblower Protection and a listing of Other Fraud Hotline Phone Numbers.

Recommendation No. 7: Completed

We included clear language in the Hotline operating procedures and telephone system to indicate that County employees are protected by California Whistleblower laws.

