

September 12, 2016

TO: Board of Commissioners

FROM: John Hutzler, County Auditor
Keith Shoop, Performance Auditor

SUBJECT: Audit of Ethics Matters Hotline



Attached is the County Auditor's report on the Ethics Matters Hotline together with the response of the County Administrator.

In FY 2011-2012 your Board established a local government waste hotline, as authorized by ORS 297.760, and the County Administrator adopted procedures for hotline administration.

We conducted this audit to determine (1) whether County policies and procedures for the Ethics Matters hotline satisfied the requirements of Oregon law, (2) whether County employees followed County policy and procedures when processing hotline reports, and (3) whether Washington County implemented best practices for hotline administration.

We found that (1) County policies and procedures satisfied most, but not all, requirements of state law, (2) County employees usually, but not always, followed County policy and procedure, and (3) Washington County adopted many best practices, but opportunities for improvement remain.

We made eight recommendations to the County Administrator to improve compliance with state law and County policy and procedure, and to increase the effectiveness of the hotline. We thank the County Administrator for his prompt and comprehensive response to our recommendations. He reports that he intends to fully implement all of our recommendations by June 30, 2017.

We would like to thank the members of the Ethics Matters Advisory Committee, and especially County Controller Roger Dawes, for their cooperation and assistance with this audit.

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**Washington County
Auditor's Office**

Audit of Ethics Matters Hotline

Final Report
September 12, 2016



John Hutzler, CIA, CGAP, CCSA
County Auditor

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AUDIT OF ETHICS MATTERS HOTLINE EXECUTIVE SUMMARY

Why we audited the hotline

We conducted this audit to address the following questions:

- Did County policies and procedures for its Ethics Matters hotline satisfy the requirements of Oregon law?
- Did County employees follow County policy and procedures when processing hotline reports?
- Did Washington County adopt best practices for government waste hotlines?

What we found

- County policies and procedures satisfied most, but not all, requirements of state law.
- County employees usually, but not always, followed County policy and procedure.
- Washington County adopted many best practices, but opportunities for improvement remain.

What we recommend

To satisfy the requirements of state law, the County should:

- Consistently post notices in County offices explaining the purpose of the hotline and prominently displaying the telephone number for the hotline;
- Clarify that employees may utilize the Ethics Matters Hotline to report waste, inefficiency or abuse;
- Accept reports of waste, inefficiency or abuse by County contractors;
- Provide the Board of County Commissioners with a copy of any findings that officers, employees, or contractors of the County are involved in activities that constitute waste, inefficiency or abuse.

To improve compliance with County policies and procedures, the County should ensure that responsible employees:

- Log all reports of government waste, inefficiency or abuse;
- Exclude the reporter's name from final reports; and
- Provide a copy of the written report to the non-culpable department head or elected official having authority over the matter investigated.

To improve the effectiveness of the hotline the County should:

- Implement a long-term marketing and communication strategy for Ethics Matters that increases the public website presence of the hotline, enhances employee ethics training, reports publicly on hotline statistics, and provides the County Auditor with additional information on each case.



BACKGROUND

The term “whistleblower” has been around since the 1930s, but until Ralph Nader, it was widely considered negative. In the 1970s Nader acknowledged that the whistleblower was not highly regarded: “We have invidious terms for him: he is a ‘fink’ or a ‘stool pigeon,’ a ‘squealer’ or an ‘informer,’ or he ‘rats’ on his employer.” It was Nader’s call for civic-minded “whistleblowers” to step forward and report fraud and other misdeeds that initiated its evolution into a positive term – someone of high morals and integrity who is willing to sacrifice to report illegal activity. Whistleblowers are now protected by a plethora of federal and state statutes.

Ralph Childs created the first whistleblower hotline in 1982. A former FBI investigator, Childs noticed that often someone within the organization knew about a crime but remained silent for fear of retaliation. Childs thought that, if employees had a way to report misconduct anonymously, companies could prevent incidents from escalating into illegal activity. Today a whistleblower hotline is a key component of any best practice ethics and compliance program.

Employees and the public can be valuable resources for uncovering waste, inefficiency, and abuse within an organization. In 2014, the Association of Certified Fraud Examiner reported that tips accounted for 42% of discovered fraud, more than management review and internal audit combined.¹ Organizations with hotlines were much more likely to detect fraud through tips than organizations without hotlines.

Reporting by employees and members of the public requires awareness of the hotline and confidence in its integrity. Those with knowledge of unethical behavior must trust that, if they report, management will investigate and not retaliate. Provisions for anonymous or confidential reporting and prohibitions against retaliation can increase trust.

Hotline reporting can mean the difference between acting early to mitigate the damage and reading about misconduct in the newspaper. Reporting the results of investigations informs leaders who are in a position to address the problem and prevent future problems. Public reports allow citizens, as well as federal and state officials, to hold local government to good governance standards. A central database can help leaders identify trends and enable them to make necessary adjustments.

¹ Association of Certified Fraud Examiners (2014). *Report to the Nations on Occupational Fraud and Abuse – 2014 Global Fraud Study*, pages 19, 21, 22, 24, 27, 29. Available at <http://www.acfe.com/rtnn/docs/2014-report-to-nations.pdf>.

In 1995 Oregon enacted legislation directing the Oregon Secretary of State's Audit's Division to implement a hotline for employees and citizens to report government fraud, waste, and abuse. Since then the hotline has identified approximately \$16 million in questioned costs. The 2010 Oregon Legislature passed a law allowing local governments to create hotlines for reporting government waste, inefficiency, and abuse.

In early 2011, the Washington County Auditor initiated discussions with the County Administrator's Office (CAO) regarding the development of a Washington County hotline. The CAO proposed, and the Auditor agreed, that the CAO would administer the hotline with regular reporting to the Auditor. Washington County contracted with EthicsPoint,² a local company and third-party provider of hotline services, to create Ethics Matters, the Washington County hotline. The hotline went live and received its first report in April 2012.

Washington County's Board of Commissioners (Board) had adopted its Reporting of Improper Governmental Conduct Policy in 1994. In August 2011 the Board amended that policy to reference the Ethics Matters hotline. The policy provides all reporters with confidentiality and protection from retaliation.

The CAO adopted procedures for administration of the Ethics Matters hotline and established an Advisory Committee to provide oversight. The Advisory Committee includes the Assistant County Administrator, Controller, Human Resources Manager, Chief Finance Officer, and Sr. Assistant County Counsel. Committee responsibilities include monitoring the efficiency and effectiveness of the hotline, reviewing and modifying hotline procedures, developing and implementing marketing and communication strategies, and other functions necessary for implementation and administration of the hotline.

Employees or members of the public can submit reports by calling a toll free number or completing an electronic form on the internet. The staff at the EthicsPoint call center accepts calls 24 hours a day 365 days a year. The reporter elects whether to provide contact information or remain anonymous. The reporter must create a password to submit a report and receives a unique report key. With the password and report key, the reporter can call back or log in to review the status of the investigation or provide additional information. The reporter's access continues throughout any investigation and for one week after the report is closed.

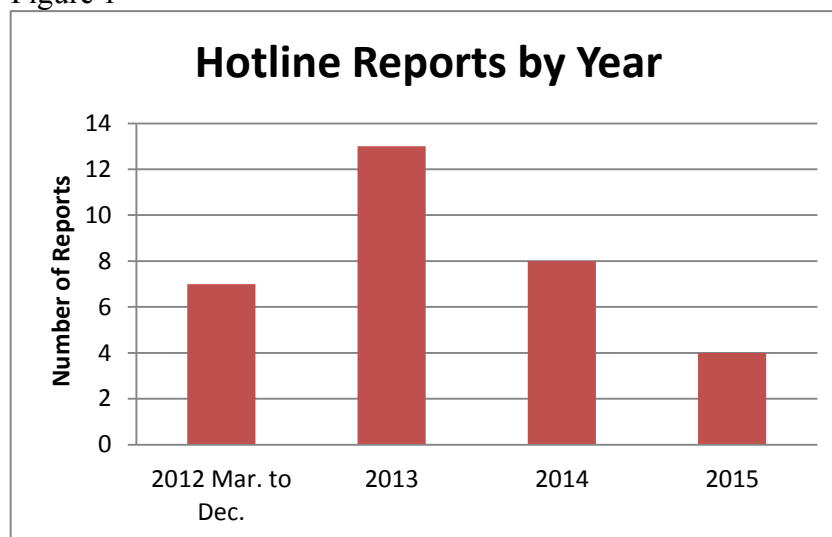
² EthicsPoint was subsequently acquired by NAVEX Global, Inc.

EthicsPoint notifies members of the Advisory Committee whenever it receives a new report. Members of the Advisory Committee can review, but not alter, the report in Ethics Matters. If the Advisory Committee needs more information, it can request it from the reporter directly or through Ethics Matters. A member of the Advisory Committee usually conducts the investigation, but the committee may assign an investigation to any non-culpable County employee or elected official. The investigating employee presents findings to Human Resources and County Counsel. The Advisory Committee makes the final determination whether the evidence supports a finding of misconduct.

The Ethics Matters Hotline received 35 reports alleging improper governmental conduct from its inception through the end of 2015. Three reports involved matters outside the jurisdiction of Washington County government. The Advisory Committee referred those to the appropriate authorities. The Committee sustained only one of the 32 reports involving Washington County. It referred that report to the Oregon Government Ethics Commission.

The number of reports declined substantially in 2014 and 2015 (Figure 1).

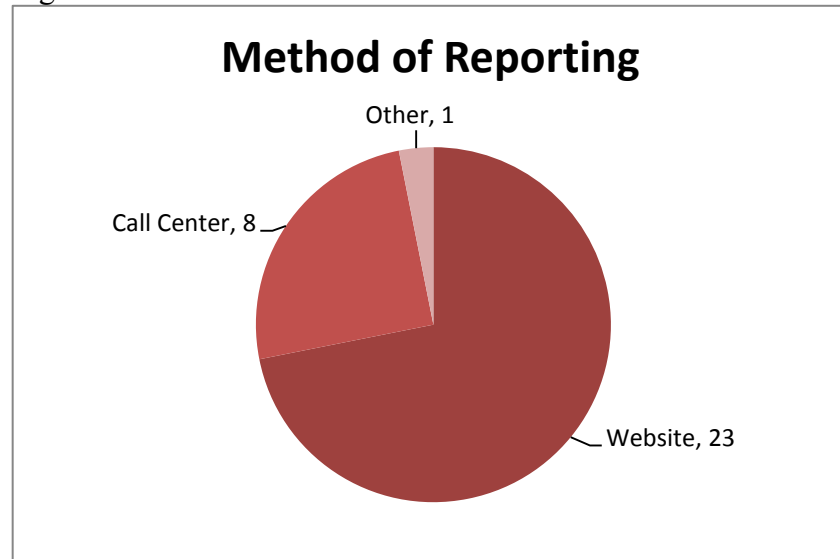
Figure 1



Source: Auditor's Analysis of Ethics Matters Data, March 2012 – Dec. 2015

Most reports (72%) came through the website (Figure 2). Most reporters (69%) chose to remain anonymous. Reporters who spoke with call center staff identified themselves more frequently (50%) than those who used the website (27%).

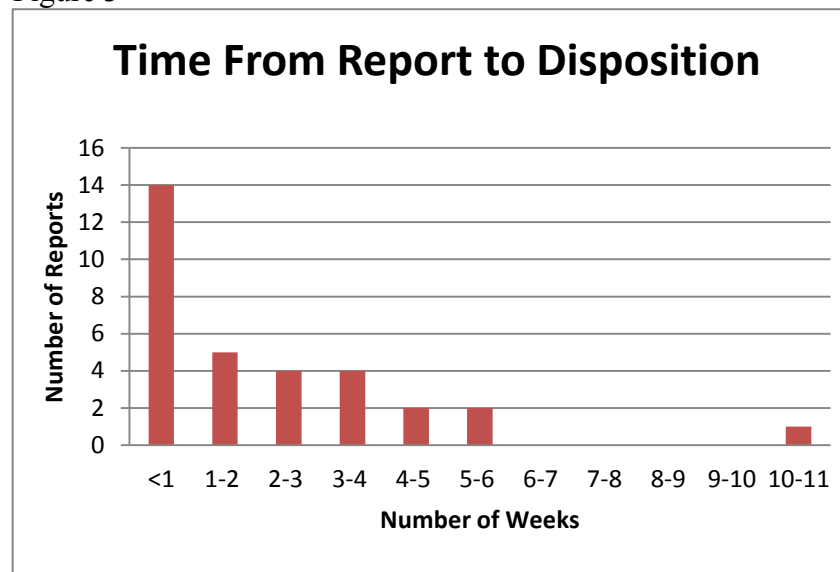
Figure 2



Source: Auditor's Analysis of Ethics Matters Data, March 2012 – Dec. 2015

The County closed many reports within a few days of submission. Others took weeks (Figure 3). The median time to disposition was 9 days.

Figure 3



Source: Auditor's Analysis of Ethics Matters Data, March 2012 – Dec. 2015

**FINDINGS &
RECOMMENDATIONS**

In general, we found that County policy and procedures satisfied most, but not all, requirements of state law. County employees usually, but not always, followed County policy and procedures. Washington County adopted many best practices, but opportunities for improvement remain.

Washington County policy and procedures provide for acceptance of reports via the hotline or by any other means. The County prepared written and electronic notices of the hotline as required, and displayed notices in County offices when the hotline was launched. Written policies and procedures provide for logging reports received through the hotline or by any other means. Policy and procedures also protect the identity of the reporter, prohibit retaliation, ensure that reports are investigated, and provide for notice to the Oregon Government Ethics Commission of potential violations of state ethics laws and to law enforcement of potential fraud or other criminal activity. Policy and procedures require that findings of improper conduct be reported to the Board and, upon request, to the person who made the report. Written determinations become public records as required

County employees investigated all claims of improper conduct, Human Resources and County Counsel were informed of all investigations. The County Auditor received case summaries, and the results of investigations were communicated to reporters.

The County's establishment of a hotline open 24 hours a day 365 days a year, administered by an independent third-party provider, with a dedicated phone number and website reflects best practice. Other best practices the County should consider are described below.

Opportunities for improvement are presented below in the context of identified attributes of effective hotline administration.

**Publicity and
Transparency**

Low levels of reporting could indicate either a strong ethical environment or a weak one. Employees and the public can be valuable resources for uncovering ethics problems within an organization. However, their ability and willingness to report are a product of their awareness of the hotline and their confidence in its integrity. Reporters must trust that management will thoroughly investigate reports and will not tolerate retaliation.

Oregon law requires that the County post "notices that explain the purpose of the local government waste hotline and that prominently display the telephone number for the hotline" in County offices.

The Ethics Matters Procedures direct the Advisory Committee to “develop and implement marketing and communication strategies” for the hotline. We found links to Ethics Matters on the County’s internal website and on certain pages of the County’s public internet site, but not on its homepage. We found Ethics Matters posters in only about one-third of County offices we visited, and none in areas accessible to the public. We recommend that the County create a marketing and communication strategy for Ethics Matters that includes consistently displaying posters in County offices, including areas accessible to the public, and increasing the visibility of Ethics Matters on the County’s public website.

Employee training is an important element of an effective hotline to ensure employees understand how and what to report. We found that the County provided basic ethics information in its new employee orientation. However, that training included no information about the Ethics Matters hotline. The Human Resources Department is developing ethics training for all employees. We recommend that such training cover state ethics laws, County policy on Reporting of Improper Governmental Conduct and Ethics Matters hotline reporting procedures. We encourage Human Resources to consult with the Oregon Ethics Commission as it develops this training.

Regular reporting on hotline activity can demonstrate that the County investigates reports received, protects the confidentiality of reporters, and considers ethics a priority. Washington County does not report publicly on the functioning of its Ethics Matters hotline. We recommend that the County report annually on hotline activity including statistics on the number of reports received, the types of allegations, the length of investigations, and the results of investigations.

Anonymity and Confidentiality

Employees who fear retaliation from other employees or management will hesitate to report improper conduct. Citizens afraid of government retaliation from government are unlikely to report. Assurances of confidentiality and provisions for anonymous reporting can increase the likelihood that those who observe unethical behavior will report it.

State law and County policy provide, with limited exceptions, that the identity of persons reporting improper governmental conduct shall remain confidential. However, County policy requires employees to report improper conduct to a non-culpable supervisor. It does not identify the hotline as a vehicle for employees to file

reports anonymously or confidentially. We recommend that the County clarify in policy that Ethics Matters is available for employees to report waste, inefficiency or abuse.

We also found that investigating employees included the name of the reporter in six final reports. County policy and procedure require the investigating employee to deliver the final report to the department head having authority over the alleged conduct. State law provides that the report becomes a public record. Including the name of the reporter in the final report violates the County's obligation to protect the reporter's identity. We recommend Ethics Matters procedures direct the investigating employee to omit the reporter's name from the final report.

**Reporting Improper
Governmental Conduct**

State law requires that the County hotline must accept reports of waste, inefficiency or abuse by the County, its employees and contractors. County policy and procedures do not provide for reporting such conduct by County contractors. We recommend that County policy and procedures provide for the reporting and investigation of allegations waste, inefficiency or abuse by Washington County contractors.

State law requires that Washington County establish written policies and procedures for logging all reports of waste, inefficiency or abuse received through the hotline or received through any other method. County policy requires the receiving employee to log any report of improper governmental conduct and provide a copy of the log to the Human Resources Division. We found that receiving employees did not consistently follow County policy. We recommend that the County ensure that all reports of waste, inefficiency or abuse by the County, its employees or contractors are logged in accordance with state law.

**Reporting Investigation
Results**

Reporting investigation results informs leaders and provides the opportunity to address problems and prevent future ones. County policy provides that the investigating employee shall provide a written report to the non-culpable department head having authority over the affairs being investigated. The Ethics Matters Procedures do not address this reporting requirement. We found that written reports of hotline investigations were not provided to department heads. We recommend that the Advisory Committee develop procedures to ensure compliance with this requirement of County Policy.

State law requires that the CAO report findings of waste, inefficiency or abuse to the Board of Commissioners. County policy and procedures do not address this requirement. We found the CAO did not inform the Board of the findings in the one sustained report. We recommend that the CAO develop procedures to ensure that the Board receives all findings of waste, inefficiency or abuse, as required by state law.

The County Auditor receives a summary of each Ethics Matters investigation. The summary includes report processing dates (date of receipt, date assigned for investigation, date of final report), the names of the receiving and investigating employees, the type of allegation, and the determination. To assist the Auditor's Office in assessing risk and effectively allocating audit resources, we recommend that the summary also identify the department with jurisdiction over the matters alleged and the substance of the allegations and the findings.

**OBJECTIVES, SCOPE
& METHODOLOGY**

We included this audit in the FY2013-2014 audit plan. Due to other audit priorities and staffing challenges, we did not begin the audit until June 2015. We conducted this audit to address the following questions:

- Did County policies and procedures for its Ethics Matters hotline satisfy the requirements of Oregon law?
- Did County employees follow County policy and procedures when processing hotline reports?
- Did Washington County adopt best practices for government waste hotlines?

We reviewed the literature on whistleblower hotlines, applicable state law, County policies and hotline procedures. We interviewed County staff involved in hotline administration and assessed the availability of information about the hotline on County websites and bulletin boards. We reviewed reports received via the hotline through December 2015 and the results of investigations of those reports. We did not evaluate whether County officials appropriately investigated and resolved reports received through the hotline.

**SUMMARY OF AUDIT
RECOMMENDATIONS**

To satisfy the requirements of state law, the County should:

1. Consistently post notices in County offices explaining the purpose of the hotline and prominently displaying the telephone number for the hotline.
2. Clarify that employees may utilize the Ethics Matters Hotline to report waste, inefficiency or abuse.
3. Accept reports of waste, inefficiency or abuse by County contractors.
4. Provide the Board of County Commissioners with a copy of any findings that officers, employees, or contractors of the County are involved in activities that constitute waste, inefficiency or abuse.

To improve compliance with County policies and procedures, the County should ensure that responsible employees:

5. Log all reports of government waste, inefficiency or abuse.
6. Exclude reporters' names from final reports.
7. Provide a copy of the written report to the non-culpable department head or elected official having authority over the matter investigated.

To improve the effectiveness of the hotline the County should:

8. Implement a long-term marketing and communication strategy for Ethics Matters, including:
 - a. Increased visibility of the hotline on the County's public website,
 - b. Enhanced employee ethics training covering state ethics laws, County policy on Reporting of Improper Governmental Conduct and Ethics Matters hotline reporting procedures,
 - c. Annual reports on hotline activity, including statistics on the number of reports received, the types of allegations, the length of investigations, and the results of investigations, and
 - d. Case summaries for the County Auditor that identify the department with jurisdiction over the matters alleged and the substance of the allegations and findings.

**COMPLIANCE WITH
AUDIT STANDARDS**

We conducted this performance audit in accordance with generally accepted government auditing standards, except that we have not had an external peer review. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence provides a reasonable basis for our findings and conclusions based on our audit objectives.

signed:



Audit Team: County Auditor: John Hutzler, CIA, CGAP, CCSA
Auditor Assigned: Keith Shoop
Reviewer: Peter Morris, CGAP



Date: September 7, 2016

To: John Hutzler, County Auditor

From: Robert Davis, County Administrator RD
Don Bohn, Assistant County Administrator ^{DB}

Subject: Response to the Audit of the Ethics Matter Hotline

Thank you for the opportunity to respond to your office's recent audit of the Ethics Matters Hotline. Your audit confirmed the progress made in implementing the Ethics Matters Hotline as approved by the Board of Commissioners in the August 23, 2011 amendment to the *Reporting of Improper Governmental Conduct Policy*, while also noting areas for clarification and improvement.

A guiding principle for Washington County is for all employees, contractors and volunteers to commit themselves to the highest standards of ethical conduct and to accept full responsibility for their actions. As such, the County encourages its employees and members of the public to report any known or suspected improper governmental conduct per the Board adopted policy.

The County will address your recommendations as follows:

- We will prepare the following amendments to the policy and procedures:
 - The policy amendments: 1) clarify that the hotline is available for employees to make reports of improper conduct, 2) clarify that the policy is applicable to County contractors; and 3) clarify that the Board of Commissioners will be provided copies of any sustained findings of improper governmental conduct.
 - The procedure amendments: 1) ensure "notice" of the hotline is consistently and visibly displayed in County offices; 2) clarify confidentiality requirements pertaining to the "reporter"; 3) provide for a written report to the non-culpable department director; and 4) provide for sustained findings of improper governmental conduct to be shared with the Board of Commissioners.
- Although a link to the hotline is currently accessible on both the internal and external web pages, staff will create a permanent presence on the County home page.
- We will continue efforts to expand Public Sector Ethics training to County employees.
- We will prepare an annual statistical summary of hotline activity and make available to the Board of Commissioners and the public.
- The statistical summary of each investigation provided to the Auditor will be augmented to provide additional information, including: subject department and expanded description of the allegation and finding.

We anticipate full implementation by June 30, 2017.