



# Deschutes County Whistleblower Program Desk Manual

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## Introduction and Purpose

The Deschutes County Whistleblower Reporting Policy (GA-14) is intended to provide a mechanism for employees, volunteers, vendors, and contractors to report concerns about government misconduct without fear of retaliation. The policy directs the County Internal Auditor to receive reports and determine whether to open investigations.

This manual is intended to provide guidance to staff who are assigned to receive, review, investigate and resolve reports received through the Whistleblower Program.

### Definitions

**Fraud** is the act of using dishonesty for personal gain. In the context of this program, the definition includes any misuse of, or attempt to misuse, a County asset for personal gain, or for purposes unrelated to County business. There are three main categories of fraud: financial statement fraud, misappropriation of assets, and corruption.<sup>1</sup> Examples of fraud include but are not limited to:

- Theft of County money, equipment, supplies, data, or other property.
- Forging or falsifying documents (e.g., timesheets, travel documents, invoices, etc.), intentionally misrepresenting the cost of goods or services provided, or other impropriety in the handling or reporting of money or financial transactions.
- Use of County equipment or property for personal gain.
- Soliciting or accepting a bribe or kickback.
- Inappropriate or unauthorized use, alteration, or manipulation of data, computer files, equipment, software, networks, or systems.

**Waste** involves the careless or extravagant expenditure of County funds, incurring unnecessary expenses, or mismanagement of County resources or property on a significant scale. Waste does not have to involve private use or personal gain, but usually signifies poor management decisions, practices, or controls.<sup>2</sup>

**Abuse** is the intentional, wrongful, improper use, or destruction of County resources. Abuse can include the excessive or improper use of an employee's or official's position in a manner other than its rightful or legal use.<sup>3</sup> Examples of abuse include but are not limited to:

- Using a County position to gain an advantage when conducting personal business or to obtain or provide a County benefit or service for someone who does not qualify for it.

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<sup>1</sup> Deschutes County Whistleblower Policy GA-14.

<sup>2</sup> Deschutes County Whistleblower Policy GA-14.

<sup>3</sup> Deschutes County Whistleblower Policy GA-14.

- Abuse of the County travel reimbursement system, unauthorized time away from work, or use of County time for personal business.
- Suspending or terminating an enforcement action based on a personal relationship.
- Unauthorized disclosure of confidential or proprietary information.
- Failure to report damage to County equipment or property.

**Investigations** are inquiries into specific allegations of wrongdoing or misconduct. The difference between a Whistleblower Program investigation and Internal Audit inquiry is that, from the outset, an investigation focuses on allegations that the conduct of (known or unknown) individuals was improper.

## **Roles**

The manual includes the following roles.

**Reporter:** The person submitting the Whistleblower tip or complaint.

**County Internal Auditor:** Head of the Office of Internal Auditor.

**Program Lead:** Staff designated by the County Internal Auditor to lead the Whistleblower program. This role can be filled by the County Internal Auditor or other designated staff.

**Investigator:** Staff designated by the Program Lead to lead an investigation. This role can be filled by the County Internal Auditor, the Program Lead, or other designated staff.

*In some cases, the same person may perform the County Internal Auditor, Program Lead, and Investigator roles at the same time.*

**Referencer:** Staff designated by the Program Lead to perform an independent review of an approved copy of the investigation report that is labeled "Reference Copy." The Referencer cannot be the same person as the Investigator.

**Subject:** A person who the Investigator determines may be involved in the tip or complaint, may have violated a rule or policy, and may be subject to discipline.

**Witness:** A person who may have been involved in or observed the incident giving rise to the tip or complaint but is not suspected of violating a rule or policy and is not likely subject to discipline.

**Subject Matter Expert:** a person who has knowledge related to the tip or complaint that may be helpful to the Investigator but was not personally involved.

## Authority

The Whistleblower Program works in the context of state laws related to hotlines, whistleblower protections, and public records laws.

### County Authority and Rules

- [Code 2.14 - County Internal Auditor](#) – This code section provides the County Internal Auditor with broad powers to audit and investigate matters and have access to employees and data.
- [County Policy GA-14 Whistleblower Reporting](#) - This policy authorizes the County Internal Auditor to manage and maintain a whistleblower program to receive information regarding allegations of fraud, waste, or abuse by local government employees. All Human Resource related reports are to be handled by Human Resources and do not fall under these procedural guidelines.

### State Laws and Rules

- Local Government Waste Programs [ORS 297.760-297.765](#)
- Whistleblower [ORS 659A.199-659A.236](#)
- Public records exempt from disclosure [ORS 192.355\(4\)](#)
- Whistleblowing disclosures by Employees [OAR 839, Division 10](#)

## Standards

When a Whistleblower Program complaint becomes an investigation, it shall be performed in an independent, complete, and timely manner. Where appropriate, investigations provide enough information to permit responsible authorities to hold individuals accountable for their actions and to correct systemic faults.

- a. Independence – This standard requires that the individual and organization performing an investigation be free, in fact and appearance, from any impairment of objectivity and impartiality.
- b. Completeness – An investigation must be complete before it can be closed. Together, the investigative report and the case file must reflect, to the extent practical, that:

- i. All allegations in the basic report were addressed, and other allegations developed during the investigation were addressed or handed off for appropriate follow-up action.
  - ii. All key individuals were interviewed.
  - iii. All relevant questions were asked.
  - iv. Pertinent documents were created, collected, reviewed, and maintained.
  - v. Legal or technical expertise was obtained and documented when appropriate.
  - vi. Conclusions are logical based on facts presented.
  - vii. Recommendations are feasible and appropriate.
- c. Timeliness – When a report is received, the first step – contacting the reporter – should be taken promptly. Ultimately, how quickly an investigation can be completed depends on various factors, including the complexity of the issues and the number and availability of witnesses.
- d. Accountability – Responsible authorities have the duty to hold their subordinates accountable for their actions and to correct systemic faults. The Whistleblower Program investigation must provide responsible authorities with the information necessary to discharge this responsibility effectively.

Although certain methods, techniques, and procedures should be followed in Whistleblower investigations, every investigation is unique. Whistleblower Program Investigators therefore must exercise sound judgment in deciding how to proceed in each investigation. Consequently, most of the information in this manual should be viewed as advisory in nature.

## Overview of Investigative Process

The investigative process is composed of four stages: intake, investigation, reporting, and follow-up.

### Intake

During intake, the Program Lead responds to the initial report, inputs the report into the case management system, and evaluates whether the case should be assigned to an Investigator, determined to be non-jurisdictional, or declined.

**Intake**

1. Reporter Submits

2. Case Status Open

- Send receipt message through portal
- Enter in case management system
- Record date

Jurisdiction?



N

3. Disposition = Not County or County Not Applicable

- Document disposition
- Disposition message through portal
- Refer case if appropriate
- Close case in portal
- Record date

Y

4. Assign Investigator

5. Conduct Case Review

6. Prepare Preliminary Investigation Plan

7. Hold Evaluation Meeting

Open Case?



N

8. Disposition = Declined

- Document decline in case management system with date and disposition
- Send message through portal
- Close case in portal

Y

9. Case Pending

- Send message through portal
- Change status to pending and record date



## Report filed

People can file a direct report to the Whistleblower Program by either phone or through a web portal:

- Phone in a report: call 833-926-2375 toll free
- Report online: [www.lighthouse-services.com/deschutes](http://www.lighthouse-services.com/deschutes)

Whistleblower Vendor staff will input called-in reports into their web portal. If Program staff receive a report of fraud, waste, or abuse by any other method, they can create a record in the Case Management System without creating a record in the web portal.

## Case Intake–1 to 2 days from submittal

- **Step 1:** Program Lead receives Whistleblower Vendor email about new report. Reports can also be submitted in person or Program staff can self-initiate a report.
- **Step 2:** Program Lead will log into Whistleblower Vendor portal to see report, give the report a working title, record it in the case management system, and create case file on Internal Audit shared drive.
- **Step 3:** The Program Lead will decide if the Program has jurisdiction to review the case. The Program Lead may consult with other County officials such as the Head of Human Resources, the Risk Manager, or Legal staff. If the Program does not have jurisdiction, the Program lead will notify the Reporter of an appropriate place to report through a comment in the portal. The Program Lead will change the case status to Closed.

<i>If the report is related to:</i>	<i>Next step:</i>	<i>Disposition:</i>
Another agency or entity (for example, a nearby city)	Notify Reporter	Not County
A private matter such as identity theft or rental fraud	Notify Reporter	Not County
The County but not a case of fraud, waste, or abuse.	Send to relevant office or department	County Not Applicable

<i>If the report is related to:</i>	<i>Next step:</i>	<i>Disposition:</i>
Employment matters including discrimination, substance abuse, whistleblower retaliation, sexual harassment, appeals or complaints about adverse employment actions, compensation (overtime, wages, etc.), lunch or other breaks, classification issues, the job application process, etc.	Send to Human Resources	County Not Applicable
Reports about collective bargaining agreements. (Matters subject to collective bargaining agreement grievance procedures are outside the authority of the Whistleblower Program.)	Send to Human Resources	County Not Applicable
Workplace violence or threats	Send to Risk Manager	County Not Applicable
Medicaid quality assurance, personal health information violations	Send to Health Services	County Not Applicable

- **Step 4:** If the case is within Program jurisdiction, the Program Lead will acknowledge receipt in the portal, keep the status as New and assign the case to an Investigator.
  - When assigning a case to an Investigator, both the Program Lead and the Investigator will consider independence of the Investigator. The Investigator should be free, in fact and appearance, from any impairment of objectivity and impartiality. Impairments could include, but are not limited to, financial interest, self-review, bias, and familiarity. It is the Investigator’s responsibility to alert the Program Lead if an impairment exists and the Program Lead will assign another Investigator.
  - Program staff will use 2018 GAS 3.17-3.108 as guidelines for evaluating independence. The evaluation will be documented in the case folder.
  - If there is no other Investigator to assign a case to, the Program Lead will document steps taken to mitigate the impairment in the case file.

## Case Review–5 to 30 days

- **Step 5:** The Investigator will conduct an intake interview with the Reporter if possible.
  - The Investigator will request additional information from the Reporter if needed. The Reporter can upload documents through the portal.
  - The Investigator will conduct other background research.
    - Research past news articles or County actions related to the subject of the complaint.
    - Search the case management systems for key descriptive words and names (if known) of individuals including managers involved in the reported activity.
    - Consult with Human Resources and Legal to identify any legal issues involved with the subject matter of the report, as well as any process/due process or potential labor relations issues. Human Resources and Legal can also determine whether union involvement is necessary.
    - Contact other County staff for general background information only if necessary. Keep questions general and do not provide any details that might indicate the nature of the report.
- **Step 6:** The Investigator will prepare a Preliminary Investigation Plan that will include:
  - The Investigator's recommendation about whether to open an investigation or decline the tip.
  - A summary of the initial tip and Case Review.
  - No claims if after the intake interview the Investigator determines that there are no allegations to document.
  - A list of claims (allegations) that may point to violations of specific criteria (laws, policies, procedures, expressed or known expectations). These claims could be as significant as fraud, criminal activity, or potential ethics violations. Or they could also just be cases where staff are ineptly following policies.
  - A list of witnesses and involved persons (subjects) to interview.
  - A list of steps to take to gather enough evidence to substantiate reports. Also include documents to request.
  - Risk factors. The Investigator will determine whether the following risk factors apply.

Quality Information	The reporter has provided information that is detailed and specific.
Reputational Harm	There is a high risk of reputational harm to the County
At-Risk Population Harm	There is a high risk of harm to an at-risk population
High Dollar Amount	The dollar amount involved is high
Unethical Behavior	There is unethical behavior or intent
No Other Review	The issue is not being reviewed by another County department or office
Independent Reporter	The reporter does not have a bias or personal interest
Firsthand Knowledge (reporter)	The reporter has firsthand knowledge of the event
Evidence Potential	Substantiating the claim will not rely on testimonial evidence. There are documents that could back-up the report.
Retaliation Potential	There is a risk of retaliation to the reporter
Exhausted Other Outlets	The reporter has exhausted other outlets for reporting concerns (management, HR, etc.)
Multiple Report Different Sources	We have received multiple reports of this incident from different sources
Timely	The report is about a recent or on-going issue (not something in the past that has been resolved)

## Case Evaluation

- **Step 7:** After the Preliminary Investigation Plan is complete, the Investigator will share the plan with other Program staff and hold an evaluation meeting. The purpose of the evaluation meeting is to determine whether staff should pursue a full investigation, refer the tip to Human Resources, or decline the tip. The Investigator will take notes during the discussion and document them in the case communications folder. Meeting attendees should include staff from Internal Audit, Human Resources, and the Risk Manager.
- **Step 8:** If staff decide that the case is de minimis, the case will be declined. The Investigator will draft a brief statement about why the case was declined in the Narrative field in the case management system and notify the Reporter that the case has been declined through the portal. Allow the Reporter 30 days to respond or to provide more information.
- **Step 9:** If staff decide to open an investigation, the Investigator will change the status to Pending and begin the investigation. (See next section.)

## Internal Referrals

- Some tips will be within Whistleblower Program jurisdiction but better suited to investigation by management. In these cases, the Program Lead will forward the tip to Human Resources. See the section on [internal referrals](#) for more information.

## Referral to Law Enforcement Agencies

- When Program staff determine during the **Initial Review** or during an **Investigation** that fraud or other criminal activity may be occurring or may have occurred, the first step is to take the Report to the County Counsel and Administrator.
- In addition, Program staff must notify the appropriate law enforcement and/or regulatory agency of potential fraud or other criminal activity for further investigation. Required by **ORS 297.765 (5) (b)**.
- Include the identity of the Reporter. **ORS 297.765 (2) and (5) (b)** removes the legal requirement to keep confidential the identity of any person calling the Program or otherwise making a complaint about fraud or other criminal activity.
- The referred-to law enforcement agency will be responsible for investigating and working with the District Attorney to try to prove that a crime has occurred.
- Program staff will maintain contact with the law enforcement and/or regulatory agency to request updates on their investigation.
- If necessary, the County Internal Auditor shall petition the law enforcement and/or regulatory agency and/or the District Attorney's Office to act on the complaint.
- Program staff may provide assistance, upon request, to the agency receiving the referral, e.g. analytical reviews, communicating with an anonymous Reporter through Whistleblower Vendor's case management system.
- Program staff will notify the Reporter about this referral to law enforcement or regulatory agency through the Whistleblower Program's case management system.
- Hold the case status as "Open: In Process" in the case management system until its resolution is confirmed by the District Attorney or law enforcement or regulatory agency.
- When the District Attorney brings case to trial, especially when there is a conviction and/or recovery of stolen or embezzled property, Program staff should report outcome of the case to County Board of Commissioners giving credit to the Whistleblower Program's part in the case.
- The identity of the person making the Program report shall remain confidential in the **written determination** provided to the County Board of Commissioners. **ORS 297.765 (7)**

## **Conflict Reports**

If a report includes the name of either the County Internal Auditor or the Human Resources Director as a subject or witness, the Whistleblower Vendor will only send the report to the Risk Manager and neither County Internal Auditor nor the Human Resources Director will be able to see it. The Risk Manager should decide whether the County Internal Auditor or the Human Resources Director are involved or not. If the Risk Manager decides that there is no conflict, the Risk Manager should notify the Program Lead about the case and the Program Lead will work with the Whistleblower Vendor to make the case visible to staff in the Whistleblower Vendor case management system. The case will then proceed as a normal case.

Any complaints regarding the County Internal Auditor or the Internal Audit Program shall be taken up by Human Resources. Human Resources will involve the Chair of the Audit Committee; the County Administrator and County Counsel to assess needs for an investigation.

Complaints regarding a Commissioner, other elected official, the County Administrator, or County Counsel will be handled by the County Internal Auditor. The County Internal Auditor or their designee (independent auditor or Certified Fraud Examiner) will conduct an initial review. Results will be discussed with the highest and most independent management not named in the report or involved in the allegations.

## Investigation

The purpose of the investigation phase is to gather the evidence needed to determine whether claims can be substantiated. The Investigator may consult with Human Resources or Legal staff when preparing the Investigation Plan and conducting interviews.

### Investigation

10. Prepare Working Investigation Plan

11. Notify Leadership

12. Carry Out Investigation Plan

13. Prepare Preliminary Findings

14. Hold Disposition Meeting



### Prepare working investigation plan

**Step 10:** The Investigator will prepare a Working Investigation Plan. This plan can be based on the preliminary investigation plan shared at the evaluation meeting. The plan can be revised as the investigation progresses, but each iteration of the plan should be signed by the Program Lead and saved in the case file.

## Contact leadership

**Step 11:** The Program Lead will contact the office head or department director to inform them that the case is open. After leadership is notified, the Investigator can begin to contact staff to set up interviews and request documents. The Investigator should take care not to describe any report details that could disclose the identity of a Reporter who wants to remain anonymous, or one who has requested confidentiality. Be prepared to act quickly from this point on. Information will be difficult to control. Remind any staff contacted (including leadership) of their responsibilities regarding the investigation:

- Keep information related to Whistleblower Program investigations confidential until the close of the investigation.
- Cooperate with the investigation.
- Do not retaliate against any staff involved.

## Carry-out the investigation

**Step 12:** to carry-out the investigation...

- Plan interviews
  - Review documentary evidence and notes from prior interviews to prepare questions for the interview. Organize evidence and have it on hand to show the interviewee if needed.
  - The Investigator should inform Subject Matter Experts, Witnesses, and Subjects of their status in the investigation when making a request for an interview. The Investigator should be prepared to accommodate any reasonable requests and be respectful of time. Make sure to schedule enough time to answer all of the questions and try to schedule the interview at a convenient time with no other distractions. (i.e. not right at the end of the day if the person needs to pick-up a child at daycare.)
  - Investigators will record all in-person interviews. We do this so that there is an independent and reliable record of the conversation. We record all interviews so that there is no question of disparate treatment. When beginning the recording, all present should state their names and affirm that they consent to being recorded. Not all recordings will be transcribed, but the audio file should be saved in the file.
  - If in-person interviews are not possible, interviews can be conducted over Microsoft Teams. The Investigator should use the record function during the meeting. The Investigator should ask the interviewee to



- acknowledge that the meeting is being recorded at the start of the interview.
  - Program staff should involve Human Resources when conducting interviews with Subjects, Witnesses, or any staff who may be subject to discipline related to the report.
- Conduct interviews
  - Do not judge during interview – that interferes with establishing your credibility.
  - Questions should be presented in a neutral and factual manner. Avoid making any subjective, judgmental, or critical comments or questions during the interview, or which might suggest bias, derision, or pre-determination.
  - Listen better – be an active listener. Use what you hear to re-direct your questions.
  - Introduction – explain the purpose of the interview.
  - Build Rapport – explain interview is opportunity for interviewee to tell their side of story.
  - Questions - Ask relevant and specific questions that elicit a detailed response. Try to ask open-ended questions. If necessary, present evidence to show interviewee is not being honest.
  - Summary – “am I understanding this correctly?”
  - Close – “thank you” and broad outline of likely next steps in investigation.
- Gather and review documentary evidence
  - Common sources of evidence include emails, financial data from Munis or NOVAtime, p-card transactions, personnel records, social media research, and text messages.
  - Obtain evidence and information that is complete, reliable, and relevant.
  - Be cognizant of the chain of custody including origin, possession and disposition of relevant evidence and material obtained during the course of an investigation.
  - Strive to preserve the integrity of relevant evidence and material.
  - When requesting personnel records, make blanket requests to keep the subject confidential.
- Provide regular updates to the office or department leadership and Reporter. These can be as brief as just letting them know that we are still working on the case.
- Refine investigation plan as needed. County Internal Auditor approval should be documented for major changes.

## **Prepare preliminary findings**

**Step 13:** prepare preliminary findings.

- Determine whether there is evidence to substantiate each claim. If needed gather more evidence.
- Document status and disposition of claims in the case management system.
- Be alert to the possibility of conjecture, unsubstantiated opinion and bias of witnesses and others.
- Conclusions shall be supported with evidence that is relevant, competent, and sufficient.
- Use preponderance of evidence as the standard of proof. Standard of proof means the degree of certainty necessary to decide that an allegation should be sustained when all of the credible evidence, pro and con, developed during the investigation is weighed together. For most investigations, the standard of proof is a preponderance of credible evidence, meaning that it is more likely than not that an event occurred. This is sometimes quantified as a 50% or greater likelihood. This is the standard most often used in civil litigation and is lower than the beyond a reasonable doubt standard of proof used in criminal prosecution.

## **Disposition meeting**

**Step 14:** Hold a disposition meeting. Invite Program Staff to a meeting to discuss preliminary findings.

## **Not Substantiated or No Further Action**

**Step 15:** If all claims are determined to be not substantiated the Investigator will:

- Record the disposition in the case management system along with the date.
- Inform the Reporter and Leadership of the disposition.
- Close the case in the Whistleblower Vendor portal.

It is not necessary to draft a report or inform the Board of Commissioners if a case is closed with a disposition of Not Substantiated.

In some cases, it may be necessary to propose closing a case or finding without further action. These are cases in which the Investigator cannot document enough evidence to make a determination on a claim.

- For example, if additional information is not provided timely, Program staff can close the case and inform the Reporter. The Investigator should inform the Reporter and Leadership about the reason for closing the case with no further action. Allow the Reporter 30 days to respond or to provide more information.

- The Investigator should document the reason the case was closed with no further action in the narrative field in the case management system. As with cases with a Not Substantiated disposition, there is no need to write a report or inform the Board of Commissioners.

## Reporting

During the reporting stage the Investigator prepares a written determination of findings and shares it with the appropriate parties.

## Reporting

16. Prepare Detailed Memo

17. Quality Control

18. Share Detailed Memo with Leadership. (Response to recommendations, two-week deadline)

19. Incorporate Response and Corrections into Final Memo. Share with Leadership

20. Prepare Public Report (two-page)

22. Release Public Report

- Record disposition and date in case management system
- Close case in vendor system
- Send report and disposition to Reporter
- Share report with Board of Commissioners

### **Prepare Written Determination**

**Step 16:** Written determination of findings is required by ORS 297.765 (6)(a).

For cases with a Not Substantiated or No Further Action disposition, the Investigator should record the disposition in the case management system. The Investigator should notify the reporter of the disposition and the Program Lead will notify the office or department leadership.

For substantiated cases the Investigator will prepare a Detailed Memo addressed to the office or department leadership:

- Should include the initial report
- Should include facts of what happened and why it happened
- Should include recommendations to enable management to enable them to correct any problems and mitigate the weaknesses in controls or workplace culture so that problems will not reoccur.
- Will not include name of the reporter if the reporter requested to remain confidential.

Corrective or preventive actions include those steps taken to minimize the likelihood wrongdoing or other undesirable events will occur or reoccur. Examples include: establishing, changing, or augmenting procedures, training, and implementing internal controls. Responsible authorities may decide to take corrective or preventive action even when the allegations cannot be substantiated. Recommendations should not include disciplinary action, instead include recommendations that Human Resources investigate and recommend discipline if warranted.

When considering whether to include the subject's name in the report, Investigators should assess whether release of a subject's name is prohibited, if the public interest would be advanced by disclosure, and whether the alleged conduct is serious. If the answer to any of the following questions is yes, the Investigator should strongly consider using the affected person's name in the Whistleblower Program report.

- Would disclosure of the affected person's name advance an interest of the general public or the public's understanding of the way in which government administration is carried out?
- Is the affected person's name **not** otherwise exempt from disclosure by law?
- Is the alleged misconduct by the affected person serious?
- Does the conduct in question (1) evidence systematic problems within an agency, (2) shed light on the effectiveness of management or sufficiency of County laws, rules or procedures, or (3) raise the issue of imprudent management of County employees?
- If the affected person was not disciplined, does the lack of discipline raise the issue of whether there will be accountability for the conduct in question?
- Is information about the conduct in question already publicly available?

The Investigator should ask staff from the Legal Department to review the report and incorporate feedback.

### **Quality Control Review**

**Step 17:** To verify the logic and accuracy of information contained in the Detailed Memo, the Office of Internal Audit has established an independent review process. In independent review, a staff person other than the Investigator serves as referencer and to review an approved copy of the report that is labeled "Reference Copy."

Referencing is completed electronically, with report contents linked (“indexed”) to supporting working papers. The Investigator creates a comment box for each item to be referenced, with the working paper link in the box. The link should be as specific as possible, to a cell of a spreadsheet or to a paragraph of a document. The Investigator may highlight or make index marks in the working paper to point the referencer to the correct information.

Referencing can be a time-intensive activity and therefore subjectivity should be used in determining what should be referenced. Not every sentence needs to be referenced. Investigators should index all major figures, facts that are not considered common knowledge, conclusions, and any other information the Investigator thinks is necessary. The Investigator should make the decision of what to index based on risk. A referencer may request additional cites if they believe a statement is not adequately supported. Investigator and referencer may choose to reference some working papers or sections of the report before the full report is completely indexed.

Once the referencer is satisfied that the information is supported and accurate, the referencer indicates approval by closing the comment box.

When the referencer discovers inaccuracies or disagrees with the logic or adequacy of support, the referencer responds to the comment with the question or area of disagreement. Minor points can be handled informally (orally); however, all substantive matters should be recorded in the comment box.

After the referencer has completed their initial review, the Investigator responds to each point made by the referencer in the open comments by responding to the referencer comment with additional information or clarification. If a disagreement arises which the Investigator and referencer are unable to resolve, the County Internal Auditor intervenes and makes a final decision. Independent review is complete when all review points have been cleared by closing of all comments.

Subsequent changes to the report must also be checked by referencers, either added to the original reference draft or as a separate document. It is the responsibility of the Investigator to ensure all substantive additions or changes are referenced.

### **Share Detailed Memo with the Office or Department Leadership**

**Step 18:** The Program Lead will send the Detailed Memo to the office or department leadership and offer to meet in person to discuss. Program staff will request that the office or department:

- Correct any errors of fact
- Provide a written response that indicates whether leadership agrees with the recommendations

The Program Lead will request a response within two weeks.

### **Final Memo**

**Step 19:** The Agency's response should be incorporated into a final draft of the Detailed Memo. The finalized Detailed Memo, including written responses and any corrections, will be shared with the office or department leadership. The Detailed Memo will not be proactively shared with the Reporter or with the Board of Commissioners, but it is a public record and must be shared if requested.

### **Public Report**

**Step 20:** If claims are substantiated then a written determination will be provided to the Reporter, Board of County Commissioners, the Audit Committee, and the office or department leadership. If claims are related to ethics violations the Program must also inform Oregon Government Ethics Commission. (ORS 297.765 (5)(a))

The Investigator will prepare a brief Public Report meant for public consumption to fulfill this requirement. The Public Report should be no more than two pages. The Public Report should include all important facts from the Detailed Memo but should not contain any information that was not in the Detailed Memo. The Public Report should be visually pleasing and contain graphics.

**Step 21:** The report will be released according to the protocols of the Office of the Internal Auditor.

The case is officially closed upon public release of the report. The Investigator should record the case disposition and close date in the Case Management System.

### **Management Letter**

At times, Investigators may uncover information that could be useful to management even in cases where there was no substantiated fraud, waste, or abuse. For example, Investigators may find best practices that would be helpful to management or note areas where policies and procedures could be updated. In these cases, Investigators can draft a letter to management to communicate the recommendations. The Program Team will not publish management letters on the website or include them in the annual report.

### **Follow-up**

One year after a report has been issued, management will report on progress toward the recommendations listed in the report. About a month before the due date the Program Lead will send an emailed letter to the office or department leadership explaining the

follow-up process. The email will include a form which management should use to report progress. The form includes a place for management to assign a status to each recommendation (Resolved, Underway, Planned, and Disagree) and a place for a narrative response. We will also ask management to provide documentation for the status. If management does not return the form by the deadline, the Investigator will follow-up with the office or department leadership.

When the form is returned, the Investigator will review the form and supporting documentation and decide whether the reported status is accurate. If needed, the Investigator will follow up with questions. The Investigator will draft a report with links to supporting documentation.

The report will be released according to the Quality Control Review procedures listed above and the protocols of the Office of the Internal Auditor.

The Program Team will decide whether to publish follow-up reports on a case-by-case basis.

If the report will be published, the Program Lead will notify to the office or department leadership prior to the report's release. However, a response to the report will not be published with the report. The follow-up report will be posted to the Office of Internal Audit website and emailed to Board of County Commissioner members.

The status of all recommendations will be tracked and reported in the Annual Report regardless of whether an investigation-specific follow-up report is released.

## File Management

Staff will keep records in two places: working files will be kept in the Office of Internal Audit shared drive, logs and metrics will be kept in the Program case management system.

### **Office of Internal Audit shared drive**

- All Program reports documents will be saved in the Investigations Folder on the Office of Internal Audit shared drive. Create "Report xxx" sub-folder under the Investigations Folder for any Reports needing it, using Report/Case #.
- Save all documents that will be needed for evidence and any significant email communications. Staff do not need to save transitory email communications but should save interview and document requests.
- Do not save draft documents.
- Save each iteration of the Working Investigation Plan with the County Internal Auditor signature.



## **Case Management System**

The Program Case Management System is used to:

- track case status and people involved in cases.
- track information provided by the reporter in the portal (this is the only place information received through the portal is retained, so it is important to track it all here).
- serve as the written determination for cases that are closed without a Substantiated finding. (Not-County, No Further Action, Declined, Not Substantiated, etc.)
- Provide quantitative data about the Program overall to be used for annual reporting.

## **Whistleblower Vendor Portal**

The portal is mainly used to communicate with Reporters and not for document retention. Any data entered by the Reporter will be entered into the case management system and documents uploaded to the portal will be saved in the case file on the shared drive. Any communication through the portal will be saved in the case log in the case management system.

## **Record Retention**

Oregon public records law requires the files be retained for the following lengths of time

- OAR 166-150-0135(52) – Internal Investigations Case Files
  - 10 years after employee separation – if resulted in termination
  - 2 years after resolution – if discipline or exoneration
  - 1 year – if unfounded
- OAR 166-150-0200 – Incident reports – 5 years for investigations of fraud.

NOTE: Use the most conservative time frame for retention.

Electronic records will be retained on the Office of Internal Audit shared drive. Electronic records are preferred. Any hard copy records will be kept in the County's secure warehouse under their archive security.

## **Public Records Requests**

Public records requests will be coordinated by the County Internal Auditor. The County Internal Auditor will consult with County Counsel about records exempt from disclosure and redactions.

Records are exempt from disclosure until the investigation is complete.

## **Summary of Report/Case Status and Dispositions**

**There are three options for case status:**

- **New**—Cases before they have been reviewed by the Program Lead or Investigator. Record the date the report is submitted in the filed field.
- **Pending**—Cases that are actively being investigated by Program staff. Record the date the Audit Services Director approves the first Working Investigation Plan in the initiate field.
- **Closed**—Cases that are no longer active. Record the date the case is closed in the closed field.

**Closed cases can have the following dispositions:**

- **Declined**—The Audit Services Director declined to investigate the case. This could happen at the intake phase or after the case evaluation meeting. The report does not merit investigation according to risk criteria or could also lack credibility in the professional judgment of the Audit Services’ Program staff.
- **Not County**—The Program Lead determined that the report was not within the Program jurisdiction and referred the Reporter to an outside agency.
- **County Not Applicable**— The Program Lead determined that the report was related to the County, but not within the Program jurisdiction and referred the Reporter to another reporting venue. (Human Resources, Risk Management, Health Services, or the relevant Office or Department)
- **No Further Action**—Cases where the evidence available does not lead to conclusive findings.
- **Substantiated**—At least one claim in the report was substantiated.
- **Not Substantiated**—No claims in the report were substantiated.

## Unreasonable Conduct by a Reporter/Complainant

Most people who make reports to the Whistleblower Program will see the process as fair and reasonable and will accept decisions and outcomes that may be unfavorable to them. However, there are some people who may experience frustration or anger about the subject matter of the tip that will lead to abusive or aggressive responses to Program staff. Reporters may threaten harm, be dishonest, send frequent communications with irrelevant information, or insist on outcomes that are clearly not appropriate or possible. In these cases, it is necessary for Program staff to take a systematic and consistent approach to people who engage in unreasonable conduct and to not avoid or minimize circumstances when it is necessary to interact with them.

All Whistleblower Program Staff should review the New South Wales Ombudsman report [\*Managing unreasonable conduct by a complainant\*](#). The report includes strategies and principles for dealing with unreasonable conduct. It also includes some helpful scripts for

Program Staff to use if they encounter unreasonable conduct. Staff should not avoid communication with those who engage in unreasonable conduct but should be clear when the Program Team will not take any further action.

If a Reporter/Complainant becomes abusive, Program staff should notify the County Internal Auditor. It may be necessary to involve the County Counsel if the behavior escalates to a point that it is a potential violation of Human Resources Administrative Rule 10 Non-Harassment and Non-Discrimination Policy.

## Whistleblower Vendor Information – Syntrio

### Adding users to the Syntrio

Users with administrator access can add Investigators and assign them to cases. Investigators will see communications only related to their assigned cases.

Administrators must contact Syntrio to add users to receive initial notices about tips.

Current users include:

User Email	Report Recipient	Month End Report Recipients	Incident Types
<a href="mailto:Elizabeth.Pape@deschutes.org">Elizabeth.Pape@deschutes.org</a>	Yes	Yes	Compliance & Ethics; Fraud; HR
<a href="mailto:Aaron.Kay@deschutes.org">Aaron.Kay@deschutes.org</a>	Yes	Yes	Compliance & Ethics; Fraud; HR
<a href="mailto:Erik.Kropp@deschutes.org">Erik.Kropp@deschutes.org</a>	Yes	Yes	Compliance & Ethics; Fraud
<a href="mailto:jason.Bavuso@deschutes.org">jason.Bavuso@deschutes.org</a>	Yes	Yes	HR
<a href="mailto:Kathleen.Hinman@deschutes.org">Kathleen.Hinman@deschutes.org</a>	Yes	Yes	Compliance & Ethics; HR

### Log in page for Reports:

<https://connects-standard.syntrio.com/auth/login>

**Contract No.** DC-2020-384

**Munis Vendor No.** 41984

### Contact:

Stephanie Lineman, Customer Success Manager

Main: 215.884.6150

Email: [slineman@syntrio.com](mailto:slineman@syntrio.com)

## Internal Referral Criteria

### Referral to Human Resources

Program staff may forward reports about other employment matters to Human Resources for further review and/or investigation and response. For example, these matters may be personnel related (for example, workers with complaints about co-workers).

- The Program staff will narrowly define the allegation and reference a specific personnel rule violation.
- The Program Lead will assign an Investigator to act as a liaison.
- The Program Lead will notify Human Resources.
- If Human Resources staff refuse to take the case, the Program Team will decide whether to pursue the case through the Whistleblower Program or decline.
- The Investigator may check-in occasionally for updates.
- The Investigator will be the primary contact with Human Resources staff. The Investigator may ask that Human Resources staff ask certain questions during interviews or review certain documents or data. The Investigator may request copies of all interview transcripts.
- At the completion of the investigation, the Investigator will ask Human Resources staff for written documentation of the resolution and any supporting documentation. This should occur before Human Resources staff finalize a case and apply discipline so that the Program Team has an opportunity to make suggestions about additional interview questions or document requests that could change the outcome.
- The Investigator will bring the resolution back to the Program Team and the Team will make a determination of waste, or abuse.
- In all cases, the Investigator will share the resolution with the Reporter. Any disciplinary actions taken will not be shared.
- If an allegation of waste, or abuse is sustained, the Investigator will report the outcome to the office or department leadership and the County Board of Commissioners. The report will be prepared according to the reporting protocols outlined in this manual.

## Non-Jurisdictional Criteria

### **Refer reports about rental fraud**

“Thank you for contacting the Deschutes County Whistleblower Program. The Whistleblower Program is a secure and confidential resource for the public to anonymously report suspected fraud, waste, or abuse of Deschutes County government resources by employees, contractors, board members, or others, as well as abuse of position by County employees. We don't take reports related to rental fraud unless there is a connection to services provided by Deschutes County government.

In reviewing the report you submitted through the Whistleblower Program, you described an incident of rental fraud, which is outside of the Whistleblower Program's jurisdiction, however I'd like to mention a couple of resources that may be able to assist you.

The Federal Trade Commission has a website with more information about rental fraud. See <https://www.consumer.ftc.gov/articles/0079-rental-listing-scams>. The FTC suggests filing a report with the FTC at <https://www.ftccomplaintassistant.gov/#crnt&panel1-1>. You can also contact the Deschutes County Sheriff's Office non-emergency number at 541-693-6911 to file a report.”

### **Refer reports about identity theft**

“Thank you for contacting the Deschutes County Whistleblower Program. The Whistleblower Program is a secure and confidential resource for the public to anonymously report suspected fraud, waste, or abuse of Deschutes County government resources by employees, contractors, board members, or others, as well as abuse of position by County employees. We don't take reports related to identity theft unless there is a connection to services provided by Deschutes County.

In reviewing the report you submitted through the Whistleblower Program, you described an incident of identity theft, which is outside of the Program's jurisdiction, however I'd like to mention a couple of resources that may be able to assist you.

The Deschutes County Sheriff's Office posts identity theft resources online at <https://sheriff.deschutes.org/community/crime-prevention/identity-theft/>. You may wish to contact them at their non-emergency number 541-693-6911.

In addition to the Sheriff's Office, you may also want to consider contacting the Oregon Department of Justice's Financial Fraud and Consumer Protection Section: <http://sos.oregon.gov/business/Pages/business-consumer-complaints.aspx>. From their website, you can submit an online complaint form, or you talk to someone via their Program at 503-378-4320 or tollfree at 877-877-9392.”

## Refer reports about internet fraud

"Thank you for contacting the Deschutes County Whistleblower Program. The Whistleblower Program is a secure and confidential resource for the public to anonymously report suspected fraud, waste, or abuse of Deschutes County government resources by employees, contractors, board members, or others, as well as abuse of position by County employees. We don't take reports related to internet fraud unless there is a connection to services provided by Deschutes County government.

In reviewing the report you submitted through the Whistleblower Program, you described an incident of internet fraud, which is outside of the Whistleblower Program's jurisdiction, however I'd like to mention a couple of resources that may be able to assist you.

The Federal Bureau of Investigation has an Internet Crime Complaint Center where you can submit your complaint. See <https://www.ic3.gov/default.aspx>.

You can also make a police report to the Deschutes County Sheriff through their non-emergency number at 541-693-6911."

## Templates and Scripts

The Program Lead should review these templates and scripts annually.

### Acknowledgment of Report Receipt

- Post as Comment in **Follow-ups to Reporter** field online:
- "Thank you for using the Deschutes County Whistleblower Program to report your concern. We will review your concern. We may post questions for you or request additional information so please check back periodically. When the review is complete, we will post information about a resolution on this website."
- Don't imply further action will be taken by Whistleblower Program if it's clear the report is out of our jurisdiction and/or will be referred or forwarded to another agency.

### Notification of Report Transferred to Another Agency

- Post as Comment in **Follow-ups to Reporter** field online:
- "Thank you for using the Deschutes County Whistleblower Program to report your concern. We have forwarded your report to \_\_\_\_\_ to handle this case."
- "This agency may post questions for you or request additional information from you on this Program website so please check back. **Hold on to your Report Key to access your report on this website.** To the extent that the Whistleblower Program

can learn the outcome of this agency’s review or investigation for this Report, we will post the outcome in in this portal, so please check back.”