

CALIFORNIANS AWARE

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Top 10 Points to Consider about Whistleblower Risks and Protections

1. First Steps—Researching the Realities, Consulting with Counsel

No law can protect you from, at a minimum, the significant personal and career stress involved in reporting the negligence or misconduct of your employer, co-workers or others to a government authority—or to the press. If time permits, you should do some research first, not on the law but on the actual experiences of those who have blown the whistle and suffered the consequences. Two thoughtful books are recommended.

[*Whistleblowing: When It Works—and Why*](#) by Roberta Ann Johnson provides a more positive analysis, while [*Whistleblowers: Broken Lives and Organizational Power*](#) by C. Fred Alford is decidedly more cautionary.

The steps below are not offered as legal advice but rather as introductory notes on the bewildering variety of [California](#) and [federal](#) laws available. But there are scores if not hundreds of California lawyers specializing in whistleblower protection, and you need to consult with one at the outset.

2. Deciding Your Priorities

A threshold decision depends on whether your primary motivation is to see that improper, illegal or unsafe situations are corrected, or to earn a “bounty hunter” award for calling them to the government’s attention.

3. False Claims Acts

If your primary motivation is a monetary award, there are both [state](#) and [federal](#) False Claims Acts providing for a share in the recovery of funds dishonestly gained from the government, and also several laws dealing with specific abuses. These general monetary award procedures, called “qui tam”* actions, allow a private party to sue someone on the government’s behalf alleging that he, she or it has cheated a public agency by making a false claim for contract or other payment. In either case, eligibility for an award would depend on whether the information about the alleged wrongdoing was already publicly known—in which case no award could be earned—or was revealed by the whistleblower for the first time.

5. Specific Federal Reward Laws

Other informant award provisions in federal law include:

- [Internal Revenue Service](#)
- [Postal Inspection Service](#)

- [Securities and Exchange Commission](#)
- [Food and Drug Administration](#)
- [FBI](#)
- [ATF](#)

6. Employee Whistleblowers

If you are a public *or* private sector employee concerned with an instance of illegality, fraud, waste or abuse by your employer, supervisor *or* co-workers and are *not* seeking a monetary reward, the [California Whistleblower Protection Act](#) provides the broadest and strongest protections against retaliation provided by any state.

7. Public Employee Protections

State agency, UC and CSU employees reporting waste, fraud, abuse of authority, violations of law, or threats to public health: [Government Code sections 8547-8547.12](#).

Local government employees and applicants reporting gross mismanagement, significant waste of funds, abuse of authority, or a substantial and specific danger to public health or safety: [Government Code section 53296](#).

Public school employees alleging government activity that violates a state or federal law or regulation or wasteful activity, gross misconduct, incompetency or inefficiency: [Education Code section 44110](#) et seq.

8. Workplace Safety and Health

California's Occupational Safety and Health Administration protects from retaliation private and public sector employees' complaints of unsafe working conditions—as well as their refusal to work in illegally unsafe environments, and [nearly two dozen federal laws](#) enforced by the Labor Department's Occupational Safety and Health Administration protect whistleblowing in a wide variety of work environments.

9. Health Care Facilities

[California law](#) specifically prohibits licensed health care facilities from retaliating against employees or patients who file reports or initiate, participate in, or cooperate in government agency investigations and administrative proceedings relating to quality of care, services, or conditions at the facility.

10. Disclosure to the Press

If your diligent efforts to report apparent wrongdoing to a public official or agency lead nowhere, or if doing so internally—up the chain of command—would be futile because you would be accusing someone in that chain, or if you fear that you will suffer reprisal if exposed despite laws offering protection, your ultimate option would be to take your concerns to a newspaper, broadcaster or other news organization or journalist. While there are no laws protecting anyone for media leaks *per se*, California's [Constitution](#) as well as its [Evidence Code](#) protect journalists from being forced to disclose their confidential sources to anyone under subpoena or with a search warrant. If you prefer to stay anonymous at least at first even to the journalist(s) you contact, the answer may be a digital "[strongbox](#)" or similar mechanism if the journalist's employer offers one.

* *"qui tam pro domino rege quam pro sic ipso in hoc parte sequitur"* meaning "he who as well for the king as for himself sues in this matter."