



Washington State Auditor's Office

Troy Kelley

Integrity • Respect • Independence

Whistleblower Investigation Report
Department of Corrections

For the period July 1, 2014 through June 30, 2015

Published April 16, 2015

Report No. 1014026





Washington State Auditor Troy Kelley

April 16, 2015

Bernie Warner, Secretary
Department of Corrections

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 15-001 at the Department of Corrections.

The State Auditor's Office received an assertion of improper governmental activity at the Agency. This assertion was submitted to us under the provisions of Chapter 42.40 of the Revised Code of Washington, the Whistleblower Act. We have investigated the assertion independently and objectively through interviews and by reviewing relevant documents. This report contains the result of our investigation.

Questions about this report should be directed to Whistleblower Manager Jim Brownell at (360) 725-5352.

Sincerely,

TROY KELLEY
STATE AUDITOR
OLYMPIA, WA

cc: Vicki DeBoer, Audit Director/Ethics Administrator
Governor Jay Inslee
Kate Reynolds, Executive Director, Executive Ethics Board
Josh Collette, Investigator

WHISTLEBLOWER INVESTIGATION REPORT

Assertion and results

Our Office received a whistleblower complaint asserting an employee at the Washington Corrections Center for Women (correctional center) used state resources for non-work-related activity. Specifically, it is asserted the subject used state resources to support his personal business.

We found reasonable cause to believe an improper governmental action occurred.

Background

Consistent with the State Executive Ethics Board's rule regarding use of state resources, Department of Corrections' employees are allowed very limited personal use of workplace computers, electronic mail and Internet. The employee's use must be infrequent or brief in duration.

About the Investigation

We obtained a copy of the employee's hard drive and email folders. We found the subject's personal use of email to be brief and infrequent, but his Internet browsing was not. The data collected was sporadic relative to dates due to the Internet history files being overwritten through the computer's normal processes. Therefore, our review of the subject's Internet use encompassed 26 days between July 1, 2013 and October 31, 2013. The employee's non-work-related activity totaled 796 minutes, and included searches of classified and vendor websites.

Specifically, we found on July 24, 2013, the subject browsed websites searching for lawnmowers, chainsaws and miscellaneous home improvement items for 66 minutes during a two hour period.

During the week of July 28, 2013, the subject searched classified and vendor websites for 249 minutes. The browsing activity was as follows:

- **July 28, 2013:** Searches for lawnmowers, trailers and tools for 50 continuous minutes.
- **July 29, 2013:** Searches for lawnmowers, trailers, chainsaws and tools for 69 minutes within a 90 minute period.
- **July 30, 2013:** Searches for chainsaws and home improvement items for 73 minutes during two separate periods within a 240 minute period.
- **August 1, 2013:** Searches for tools for 57 minutes within a 90 minute period.

Also, the subject spent over 240 minutes during six days from September 20, 2013 through September 30, 2013, searching websites for tractors, tools and miscellaneous home improvement items. We found the employee's browsing activity was not brief.

We found the employee has a license for a landscaping services business. During an interview with the employee, he said he does not have a personal business and explained his tax accountant recommended he obtain a business license in order to deduct expenses from his volunteer activities. These activities include landscaping, carpentry and electrical services for his church, homeowner's association and charitable organizations. The employee said he also volunteers his personal time and equipment to locate, cut and haul firewood for the sweat lodge located at the correctional center.

The employee said he used his state computer during work hours for non-work-related activity. He initially explained some of the activity was either because he was bored or was helping others search for items on the Internet. He later said some of the activity was related to his volunteer work at the correctional center. He also said he browsed websites to look for a chainsaw and a trailer, both of which he used to supply wood for the correctional center.

We made several attempts to contact the subject's former supervisor regarding our investigation; our phone calls were not returned.

Agency's Plan of Resolution

The Department has determined that the allegations against our employee merit additional review. Our plan of resolution includes a Just Cause investigation initiated by the Department of Corrections to ascertain if any disciplinary action is warranted. The process will abide by Collective Bargaining Agreement with Teamsters Local Union #117. Based on the outcome of the Just Cause investigation, the appointing authority will determine the appropriate level of action warranted.

State Auditor's Office Concluding Remarks

We thank Agency officials and personnel for their assistance and cooperation during the investigation.

WHISTLEBLOWER INVESTIGATION CRITERIA

We came to our determination in this investigation by evaluating the facts against the criteria below:

RCW 42.52.160 - Use of persons, money, or property for private gain.

(1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

WAC 292-110-010 - Use of state resources

(2) The following are permitted uses:

(a) Use of state resources that is reasonably related to the conduct of official state duties, or which is otherwise allowed by statute.

(b) An agency head or designee may authorize a use of state resources that is related to an official state purpose, but not directly related to an individual employee's official duty.

(c) An agency may authorize a specific use that promotes organizational effectiveness or enhances the job-related skills of a state officer or state employee.

(d) A state officer or employee may make an occasional but limited personal use of state resources only if each of the following conditions are met:

(i) There is little or no cost to the state;

(ii) Any use is brief;

(iii) Any use occurs infrequently;

(iv) The use does not interfere with the performance of any officer's or employee's official duties; and

(v) The use does not compromise the security or integrity of state property, information, or software.