



Washington State Auditor's Office

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Whistleblower Investigation Report

Department of Social and Health Services

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October 26, 2015

Kevin Quigley, Secretary
Department of Social and Health Services

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 15-020 at the Department of Social and Health Services.

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,

A handwritten signature in blue ink that reads "Jan M. Jutte".

JAN M. JUTTE, CPA, CGFM
ACTING STATE AUDITOR
OLYMPIA, WA

cc: Andrew Colvin, Public Disclosure and Ethics Administrator
Governor Jay Inslee
Kate Reynolds, Executive Director, Executive Ethics Board
Justin Brackett, Investigator

WHISTLEBLOWER INVESTIGATION REPORT

Assertion and results

Our Office received an assertion that a manager (subject) at Fircrest School (School) improperly disclosed the identity of an employee (reporter) who made a confidential mandatory report of abuse. Specifically, the assertion stated the subject made comments during a meeting that indirectly identified the employee as having made a mandatory report of abuse or neglect.

We found no reasonable cause to believe the subject committed an improper governmental action. However, we found reasonable cause to believe the identity of a mandatory reporter was not kept confidential as required by law.

Background

The School is a long-term care facility, operated by the Department of Social and Health Services (Department) that provides care to approximately 200 clients with developmental disabilities.

All School employees are considered mandatory reporters and must report abuse and neglect. If abuse is perceived by an employee, the employee is required to immediately intervene and file a report with his or her supervisor or the staffing office. Employees who make mandatory reports are afforded confidentiality by state law, unless they waive their confidentiality, or in cases where the offense leads to a judicial proceeding.

The Department operates a 24-hour toll-free hotline, which provides Department employees or members of the public an avenue to report abuse of children and vulnerable adults; the hotline is staffed by the Department's Children's Administration. If the caller is reporting an incident about a child or a Children's Administration facility, the hotline operator will create an intake report. If the caller is calling about a vulnerable adult, the operator will connect the caller to the place best suited to handle that concern.

About the Investigation

We reviewed the complaint filed by the reporter, conducted interviews, and reviewed emails and other documentation.

We found the reporter witnessed a co-worker treating a client in a manner that was concerning to her. Because the reporter was new to her position, she was unsure whether the actions were abuse and did not immediately report her concerns. During the subsequent two weeks, the reporter said she discussed what she witnessed with several co-workers, one of whom advised

the reporter to call the toll-free hotline and report the incident anonymously. Another co-worker advised her not to report because she may be disciplined for not reporting immediately.

Twenty days after the incident, the reporter called the hotline and reported what she had observed. The hotline operator incorrectly identified the School as a Children's Administration facility and created an intake report. The report included the reporter's name and indicated the reporter wished to remain confidential. After the hotline operator's supervisor reviewed the intake report he forwarded it to Child Protective Services, which, after realizing it did not belong there, routed the report to the School's Director of Quality Assurance.

We spoke with the Director of Quality Assurance, who said the school should never have received a hotline complaint and that it should have been investigated by Adult Protective Services. Nevertheless, she said they couldn't just ignore it. The Director of Quality Assurance conferred with the School's Nursing Facility Director about what to do. Subsequently, the Nursing Facility Director opened an investigation and assigned it to the Department's independent investigator assigned to the School.

Eight days later, the reporter was summoned to the investigator's office. This message came to the reporter through her supervisor, who relayed the investigator's message to the reporter in the presence of two co-workers. During the interview the reporter discussed the incident she had reported to the hotline and shared additional concerns she had witnessed within the past three weeks. The reporter returned to her duty station after spending an hour with the investigator. Upon her return to her station a co-worker questioned her regarding the length of time she had spent in the investigator's office.

Later that same shift, the reporter was called away to meet with management, where she was instructed to complete two incident reports related to the additional concerns she had shared with the investigator. Based on the incidents reported, the reporter's supervisor and another co-worker were immediately reassigned.

The following day, during a staff meeting in which the reporter was present, the subject told the staff about the supervisor's reassignment and that a client had been assessed for abuse. The reporter said some of the meeting attendees made comments that indicated they believed she had filed the abuse claim that had caused the supervisor to be reassigned. Because of this behavior, the reporter felt her confidentiality as a mandatory reporter had already been compromised, so she announced to the group that she had reported the supervisor for abuse.

According to the investigator, no one else was interviewed on the day the reporter was called to speak about the hotline report. We asked the investigator if she had considered how the chain of events following shortly after the lengthy interview of a single employee might point to that employee as having made a mandatory report. The investigator said client safety is the Department's primary concern. The investigator said she tries to keep the identity of reporters

confidential, but may not always have time to conduct multiple interviews for the sake of anonymity. Furthermore, she must conduct interviews while the interviewee is at work and at a time that does not interrupt client care.

Conclusion

We found that the routing error made by the operator of the hotline compromised the confidentiality of the mandatory reporter. Further, we found the manner in which the investigation was conducted -- announcing in the presence of co-workers that the reporter had been called to the investigator's office and interviewing only the reporter that day -- contributed to the breach of the reporter's confidentiality.

Recommendation

Our Office has recently received several complaints alleging the Department has failed to keep the identity of mandatory reporters confidential and complainants have said that the Department has created an environment that is not conducive to reporting abuse.

We recommend the Department strengthen its compliance with state law by:

- Ensuring hotline staff properly route complaints.
- Taking precautions to ensure investigations do not inadvertently identify mandatory reporters.

State Auditor's Office Concluding Remarks

We thank Department 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 74.34.035 Reports – Mandated and permissive – Contents- Confidentiality, states in part:

- (1) When there is reasonable cause to believe that abandonment, abuse, financial exploitation, or neglect of a vulnerable adult has occurred, mandated reporters shall immediately report to the department.
- (9) Unless there is a judicial proceeding or the person consents, the identity of the person making the report under this section is confidential.