



# Washington State Auditor's Office

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## Whistleblower Investigation Report

# Department of Social and Health Services

**Published February 18, 2016**

**Report No. 1016205**





## Washington State Auditor's Office

February 18, 2016

Kevin Quigley, Secretary  
Department of Social and Health Services

### Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 16-001 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 cursive script that reads "Troy X. Kelley".

TROY KELLEY  
STATE AUDITOR  
OLYMPIA, WA

cc: Andrew Colvin, Discovery/Ethics Administrator  
Governor Jay Inslee  
Kate Reynolds, Executive Director, Executive Ethics Board  
Jennifer Wirawan, Investigator

# WHISTLEBLOWER INVESTIGATION REPORT

## Assertion and results

Our Office received a whistleblower complaint asserting a Department of Social and Health Services (Department) employee used his state computer for non-work-related purposes.

We found reasonable cause to believe an improper governmental action occurred. The subject used his state computer for non-work-related purposes in excess of 338 hours, which included accessing sexually explicit material.

## About the Investigation

Our Office obtained the subject's hard drive and created a report based on the data retrieved.

We examined the subject's Internet history from September 19, 2014, to August 12, 2015. We found the subject used his computer for non-work-related purposes in excess of 317 hours over 156 working days. The subject spent, on average, more than two hours a day viewing news, videos, his personal email account, browsing car parts, and shopping.

We identified 27 weeks with an excess of five hours of personal Internet browsing each week, which included three weeks with browsing activity in excess of 20 hours. For example, during the week of May 11, 2015, the subject spent 1,618 minutes (27 hours) browsing non-work-related Internet sites with a high of more than 7 hours on May 12.

We found more than 250 personal files such as photographs, videos and text files stored on the subject's computer. We also found numerous documents belonging to the Health Care Authority (HCA), which included confidential information. Many of these documents were created by the subject's sister, who is an employee at HCA.

We spoke with the subject who said he has approximately 15 minutes of work to do each day. He said his job is much like that of a firefighter – most of the time he has nothing to do until there is an emergent situation. He said he did not believe his personal browsing was a problem because there was no cost to the state. When questioned about the HCA documents stored on his computer, he said his sister sent the documents to him through the state email system so he could help her with spreadsheets.

We spoke with the subject's supervisor who said the characterization of the subject's job being much like a firefighter is "not accurate" as the subject is responsible for a problematic application project that requires a lot of time. He said there is "plenty of work" including a work request board with tasks employees can do if more work is needed.

## **Sexually explicit content**

When examining the subject's Internet browsing activity, we also found he visited more than 150 websites for sexually explicit films and visited forums used for sharing sexually explicit photographs. In some instances, shortly after accessing these pages, the subject uploaded and stored sexually explicit films on a file-sharing website. The subject also accessed sites for downloading and saving videos, and sites for storing and sharing image files.

Over the course of 49 days, the subject spent more than 21 hours accessing sexually explicit material. For example:

- September 29, 2014 – The subject spent more than two hours browsing sexually explicit content, including accessing 10 sexually explicit films.
- March 16, 2015 – The subject spent more than four hours browsing sexually explicit content, including accessing nine sexually explicit films.

Also found on the subject's computer were:

- Nearly 2,000 personal favorites – 55 to websites containing adult content.
- A 30-page text file containing website addresses linked to sexually explicit content.
- Three sexually explicit films.

When we interviewed the subject he did not respond to questions about the sexually explicit material.

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

## **Agency's Plan of Resolution**

*Thank you for the opportunity to review and respond to the State Auditor's Office (SAO) draft report on Whistleblower Case No. 16-001. The Department of Social and Health Services (DSHS) appreciates the assistance of the State Auditor's Office by providing the Department with important facts from its investigation.*

*The draft report included investigation results for the time-period of September 19, 2014 through August 12, 2015; the report indicated an improper governmental action had occurred by one of our employees. The Department immediately initiated an administrative investigation/review of the alleged misconduct.*

*Upon completion of the investigation/review, and in accordance with applicable Collective Bargaining Agreements, the Department has dismissed the employee. In addition, DSHS wants to emphasize that it has no tolerance for the inappropriate use of state resources to access sexually explicit or similarly prohibited materials. We have also taken this opportunity to remind staff about the misuse of resources and compliance with computer security policy.*

### **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.