



Washington State Auditor's Office

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Whistleblower Investigation Report

Department of Social and Health Services

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June 16, 2016

Patricia Lashway, Acting Secretary
Department of Social and Health Services

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 16-011 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,

TROY KELLEY
STATE AUDITOR
OLYMPIA, WA

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

WHISTLEBLOWER INVESTIGATION REPORT

Assertion and results

Our Office received a whistleblower complaint asserting an employee (subject) at the Department of Social and Health Services (Department) claimed leave for jury duty on which she did not serve.

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

About the Investigation

We examined leave slips, reviewed emails, spoke with witnesses, and interviewed the subject.

On October 21, 2015, the subject submitted a leave request for eight days of jury duty from November 16 to 20, and November 23 to 25. Since November 26 and 27 were state holidays, she was scheduled to return to work on November 30.

On November 17, while on jury duty, the subject sent an email from her personal email account to her supervisor that stated, "I have been selected as of yesterday for a criminal case." She added the case was tentatively set to end on November 30.

We spoke with a jury administrator who said the subject was never selected as a trial juror. She said the subject reported for jury duty November 16 through 19, and was released that day. However, we found the subject did not return to work until November 30.

During an interview, the subject said she told multiple people in the office that if released early from jury duty she would remain out of the office and use annual leave. However, on October 20, October 27 and November 17, the subject sent emails to Department supervisors stating that she would return to work if she was released early. When asked why, upon her return to the office, she did not inform anyone she had served on jury duty only four of the eight days, she said she "thought they knew." She was unable to explain how "they" would know if she did not inform anyone.

On December 2, the payroll department sent an email to the subject's supervisor requesting the subject provide proof of her eight-day jury duty. Between December 2 and December 10, multiple emails were sent between the supervisor, payroll staff and upper management.

We spoke with the supervisor who said in an attempt to resolve the issue, she had multiple conversations with the subject between November 30 and December 10. She said the subject never told her she was on jury duty for only four days. When the subject was asked for proof that she had been in jury duty for all eight days, she told her supervisor she was assigned to a trial and did not sign in at the jury room. However, the jury administrator told us it is not possible for an individual to be present for jury duty and not check in. On December 10, the subject's supervisor changed the disputed four days to annual leave.

The subject failed to correct her leave request to accurately reflect time spent on jury duty. She made contradicting statements to Department management and to our Office regarding the chain of events that occurred from October to December 2015. Based on documentation, witness information, and the subject's statements, there is reasonable cause to believe an improper governmental action occurred.

Agency's Plan of Resolution

The Department of Social and Health Services (DSHS) takes the assertions seriously and appreciates the assistance of the State Auditor's Office in developing important facts in its investigation. In accordance with applicable collective bargaining agreements and agency policy, the Department will afford the employee an opportunity to respond to the Auditor's report. Based on the outcome of that process the Department will take appropriate action, which may include formal disciplinary up to and including dismissal.

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.