



Washington State Auditor's Office

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Whistleblower Investigation Report

Department of Social and Health Services

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Patricia Lashway, Acting Secretary
Department of Social and Health Services

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 16-004 at the Department of Social and Health Services.

The State Auditor's Office received an assertion of improper governmental activity at the Department. 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
Jacque Hawkins-Jones, Investigator

WHISTLEBLOWER INVESTIGATION REPORT

Assertions and results

Our Office received a complaint asserting three employees (subjects) of the Department of Social and Health Services (Department) mismanaged specific investigative cases within their division.

We found no reasonable cause to believe an improper governmental action occurred.

Background

The Children's Administration Division, within the Department, has offices located throughout Washington. Reports of suspected child abuse or neglect may be submitted at a local office or through a toll-free hotline. The reports are received and assessed by Child Protective Services.

About the Investigation

Our Office reviewed seven case files in the Department's case management system. We also reviewed emails and interviewed witnesses and the subjects.

Below are the issues reported to our Office and the results of our investigation:

Assertion 1: The subjects failed to report alleged child abuse to a law enforcement agency.

In this specific case, it was law enforcement who removed the child from the family home. The Department later became involved with the family. Therefore, there was no reason the Department would have had to inform the law enforcement agency.

We found no reasonable cause to believe an improper governmental action occurred.

Assertion 2: Two subjects failed to ensure proper procedures were followed before and after placing a child in a home.

We examined two cases related to this issue: the first involved procedures that occurred after the removal referenced above, and the second involved another child's placement.

Regarding the first case, it was asserted that the Department failed to perform a background check on the relative who took custody of the child from law enforcement. We reviewed the case and found Subject 3 assigned this task to a social worker as soon as the Department received notice of the placement; however, the background check was not completed until several months later.

During our review of the second case, we found a court order granted custody of siblings to an out-of-state relative. The issue was whether Subjects 2 and 3 violated the court order when they did not transport the newborn infant until more than a month later.

According to the case file, the infant was born prematurely, necessitating additional hospitalization. The infant was held back under doctor's orders.

Subject 2 said the doctor made a medical decision, and the Department had to adjust its plan for the well-being of the infant. The infant was transported upon release from the doctor.

We found no reasonable cause to believe an improper governmental action occurred.

Assertion 3: The subjects directed subordinates to force parents into signing voluntary placement forms.

In the case we reviewed, it was asserted Subjects 2 and 3 directed a social worker to force a parent to sign a voluntary placement agreement (VPA).

A VPA gives the Department temporary custody of a child for an agreed upon period of time. The document outlines steps the parent or legal guardian must take to regain custody of the child.

We spoke with a witness who said the social worker assigned to the case voiced concerns over forcing the parent to sign the agreement instead of obtaining a protective custody order.

Subject 2 said a VPA was already in place for the other children in the family so getting the parent to sign the agreement seemed to be the best thing to do.

Subject 3 said if the Department obtained a protective custody order from the courts, the process of reunification would take a great deal longer than using a VPA. She said she wanted to give the parent an opportunity to take the necessary steps to reunite her family before the Department took a more permanent action.

We found no reasonable cause to believe an improper governmental action occurred.

Assertion 4: A subject failed to address an employee's concern for a child's welfare when she placed the child back in the custody of the parent, resulting in significant harm to the child.

In this case, it was asserted the social worker voiced concerns for the child's safety if the child were to be returned to the parent. The social worker's concerns were ignored, and after returning the child to the parent, the child was involved in an accident.

When reviewing the case file, we found the child in question had not been under the Department's care, and therefore could not have been returned to the parent by the Department. The Department did, however, have custody of siblings and was in the process of returning them to the home during that time. An investigation of the accident determined that it was in fact an accident and not the fault of the parent.

We found no reasonable cause to believe an improper governmental action occurred.

Assertion 5: A subject grossly mismanaged her responsibilities when she failed to ensure cases were processed in accordance with state law.

In the first case, it was asserted Subject 3 directed staff to destroy personal property, which included personal documents.

We reviewed case notes and spoke with Subject 3. We found the family's belongings, which were temporarily stored in a Department cubicle, may have been exposed to bedbugs. The family had taken the remainder of their belongings when they moved to another state. When Subject 3 was told about the bedbugs, she asked a social worker to contact the family and ask if they wanted their belongings. Subject 3 said the social worker told her the family did not want them and to throw them away.

We found that the belongings were destroyed; however, no one had looked to see if they included personal documents. There is no record of the client requesting these belongings be forwarded to their new residence.

We found no reasonable cause to believe an improper governmental action occurred.

In the second case, it was asserted Subject 3 closed the case without a "subject" interview.

During our review of the case file, we found no "subject" (a parent or guardian) interview was conducted. Subject 3 said this case was a "risk-only" intake, which means there are no allegations of child abuse or neglect. In "risk-only" cases there technically is no subject; therefore, there is no subject interview.

We found no reasonable cause to believe an improper governmental action occurred.

In the third case, it was asserted Subject 3 allowed the release of a client's cats into a field and allowed a non-state employee to go to that client's home without the client's consent.

We reviewed the case notes and spoke with Subjects 2 and 3. We found the family was facing eviction due to the large number of cats living in the home. The case social worker was trying to find homes for the cats and was approached by a co-worker who volunteered to take them. The co-worker's husband, a non-state employee, assisted the social worker in removing the cats from the family's home.

Subjects 2 and 3 discussed the issue of using a non-state employee to assist with the cats and neither had concerns. Subject 2 said the parent was very open to having the extra help and did not voice any concerns with the non-state employee being at his home.

We found no reasonable cause to believe an improper governmental action occurred.

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 26.44.030 - Reports—Duty and authority to make—Duty of receiving agency—Duty to notify—Case planning and consultation—Penalty for unauthorized exchange of information—Filing dependency petitions—Investigations—Interviews of children—Records—Risk assessment process.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency, including military law enforcement, if appropriate. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

RCW 26.44.050 Abuse or neglect of child—Duty of law enforcement agency or department of social and health services—Taking child into custody without court order, when.

Except as provided in RCW 26.44.030(11), upon the receipt of a report concerning the possible occurrence of abuse or neglect, the law enforcement agency or the department of social and health services must investigate and provide the protective services section with a report in accordance with chapter 74.13 RCW, and where necessary to refer such report to the court.

A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that the child is abused or neglected and that the child would be injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050. The law enforcement agency or the department of social and health services investigating such a report is hereby authorized to photograph such a child for the purpose of providing documentary evidence of the physical condition of the child.

WAC 388-15-017 - What is the responsibility of CPS regarding reports of abuse or neglect?

(6) CPS must report to law enforcement per RCW 26.44.030(4) and 74.13.031.

RCW 26.44.056 - Protective detention or custody of abused child—Reasonable cause—Notice—Time limits—Monitoring plan—Liability.

(2) Whenever an administrator or physician has reasonable cause to believe that a child would be in imminent danger if released to a parent, guardian, custodian, or other person or is in imminent danger if left in the custody of a parent, guardian, custodian, or other person, the administrator or physician may notify a law enforcement agency and the law enforcement agency shall take the child into custody or cause the child to be taken into custody. The law enforcement agency shall release the child to the custody of child protective services. Child protective services shall detain the child until the court assumes custody or upon a documented and substantiated record that in the professional judgment of the child protective services the child's safety will not be endangered if the child is returned. If the child is returned, the department shall establish a six-month plan to monitor and assure the continued safety of the child's life or health. The monitoring period may be extended for good cause.

RCW 26.44.240 - Out-of-home care—Emergency placement—Criminal history record check.

(1) During an emergency situation when a child must be placed in out-of-home care due to the absence of appropriate parents or custodians, the department shall request a federal name-based criminal history record check of each adult residing in the home of the potential placement resource. Upon receipt of the results of the name-based check, the department shall provide a complete set of each adult resident's fingerprints to the Washington state patrol for submission to the federal bureau of investigation within fourteen calendar days from the date the name search was conducted. The child shall be removed from the home immediately if any adult resident fails to provide fingerprints and written permission to perform a federal criminal history record check when requested.

RCW 74.13.065 - Out-of-home care—Social study required.

(1) The department or supervising agency shall conduct a social study whenever a child is placed in out-of-home care under the supervision of the department or supervising agency. The study shall be conducted prior to placement, or, if it is not feasible to conduct the study prior to placement due to the circumstances of the case, the study shall be conducted as soon as possible following placement.

(2) The social study shall include, but not be limited to, an assessment of the following factors:

(a) The physical and emotional strengths and needs of the child;

- (b) Emotional bonds with siblings and the need to maintain regular sibling contacts;
- (c) The proximity of the child's placement to the child's family to aid reunification;
- (d) The possibility of placement with the child's relatives or extended family;
- (e) The racial, ethnic, cultural, and religious background of the child;
- (f) The least-restrictive, most family-like placement reasonably available and capable of meeting the child's needs; and
- (g) Compliance with RCW 13.34.260 regarding parental preferences for placement of their children.

RCW 74.14A.010 Legislative declaration.

The legislature reaffirms its declarations under RCW 13.34.020 that the family unit is the fundamental resource of American life which should be nurtured and that the family unit should remain intact in the absence of compelling evidence to the contrary. The legislature declares that the goal of serving emotionally disturbed and mentally ill children, potentially dependent children, and families-in-conflict in their own homes to avoid out-of-home placement of the child, when that form of care is premature, unnecessary, or inappropriate, is a high priority of this state.

RCW 74.14A.020 Services for emotionally disturbed and mentally ill children, potentially dependent children, and families-in-conflict.

State efforts shall address the needs of children and their families, including emotionally disturbed and mentally ill children, potentially dependent children, and families-in-conflict by:

- (2) Ensuring that appropriate social and health services are provided to the family unit both prior to and during the removal of a child from the home and after family reunification;
- (3) Ensuring that the safety and best interests of the child are the paramount considerations when making placement and service delivery decisions;
- (7) Being sensitive to the family and community culture, norms, values, and expectations, ensuring that all services are provided in a culturally appropriate and relevant manner, and ensuring participation of racial and ethnic minorities at all levels of planning, delivery, and evaluation efforts;

RCW 13.34.020 Legislative declaration of family unit as resource to be nurtured—Rights of child.

The legislature declares that the family unit is a fundamental resource of American life which should be nurtured. Toward the continuance of this principle, the legislature declares that the family unit should remain intact unless a child's right to conditions of basic nurture, health, or safety is jeopardized. When the rights of basic nurture, physical and mental health, and safety of the child and the legal rights of the parents are in conflict, the rights and safety of the child should prevail. In making reasonable efforts under this chapter, the child's health and safety shall be the paramount concern. The right of a child to basic nurturing includes the right to a safe, stable, and permanent home and a speedy resolution of any proceeding under this chapter.

RCW 42.40.020 Definitions

(4) "Gross mismanagement" means the exercise of management responsibilities in a manner grossly deviating from the standard of care or competence that a reasonable person would observe in the same situation.