



**Office of the Washington State Auditor**  
**Pat McCarthy**

**Whistleblower Investigation Report**  
**Department of Social and Health**  
**Services**

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Patricia Lashway, Secretary

Department of Social and Health Services

**Report on Whistleblower Investigation**

Attached is the official report on Whistleblower Case No. 16-026 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.

If you are a member of the media and have questions about this report, please contact Assistant Director for Communications Kathleen Cooper at (360) 902-0470. Otherwise, please contact Whistleblower Manager Jim Brownell at (360) 725-5352.

Sincerely,

Pat McCarthy

State Auditor

Olympia, WA

cc: Governor Jay Inslee

Andrew Colvin, Public Disclosure/Ethics Administrator

Kate Reynolds, Executive Director, Executive Ethics Board

Jacque Hawkins-Jones, Investigator

# WHISTLEBLOWER INVESTIGATION REPORT

## Assertion and results

Our Office received a whistleblower complaint asserting Department of Social and Health Services (Department) employees (Subjects 1, 2, and 3) did not submit leave for absences when they reported to work late or left early from work.

We found reasonable cause to believe Subject 1 failed to use leave for all of her absences from work.

We were unable to determine whether Subjects 2 and 3 failed to submit leave for their absences from work.

## Background

The Department's Juvenile Rehabilitation Administration serves the state's highest-risk youth, who have either committed a serious crime or have an extensive criminal background and have been placed in the custody of Juvenile Rehabilitation. The Department oversees three facilities housing these youth, one of which is Echo Glen Children's Center (Echo Glen).

The subjects of this investigation work as security guards at Echo Glen. Their job duties include supervising resident movements, appointment and emergent medical transports, general observation, and responding to security calls.

## About the Investigation

We requested the subjects' emails, timesheets, and leave and overtime requests. We also requested gate key records, student movement records, video surveillance, vehicle logs and daily security unit logs.

We spoke with an Echo Glen associate superintendent (PB), who told us Echo Glen does not keep vehicle logs for security unit vehicles, does not retain student movement records for more than a few months, and does not record the video surveillance. We reviewed state records retention schedules for these items and found that Echo Glen was not complying with state law regarding record retention. We notified staff at Department headquarters and at Echo Glen of this issue.

During the investigative period of June 1, 2015, through June 30, 2016, an associate superintendent (AT) managed the security unit. AT oversaw the unit, and reviewed and approved the schedules and employee leave. During that time, Subject 2 was responsible for creating the monthly schedule. The schedules covered three shifts each day: five guards were scheduled for the day and swing shifts, and four were scheduled for the graveyard shift. On each shift, one guard worked exclusively at the health center. Subject 1 was scheduled to work day shifts; Subjects 2 and 3 were scheduled to work both day and swing shifts.

In order to track who is on campus, employees must scan their employee cards when driving through the gate. AT said she has advised employees in writing, that they must scan their employee cards even when the gate is open and not to follow another employee's car through the gate without scanning their cards. Once on the grounds, security employees report to the security office and retrieve vehicle and cottage keys, meet with other security staff and sign or initial the daily log before starting their work shift.

### *Subject 1*

Subject 1 was scheduled to work from 7 a.m. to 3 p.m. Subject 1 was assigned to work at the facility school, which operates from 8 a.m. to 2:30 p.m. Echo Glen requires a security guard be present at the school during operating hours. Subject 1 operates the school switchboard and logs student movements. Although these logs, according to state law, should be retained for at least two years, PB told us they are destroyed every few months. For this reason, we were unable to review the logs created during our investigative period.

Witnesses said Subject 1 is consistently 30 to 45 minutes late to work and often leaves early. Subject 1 said her previous supervisor allowed her to come in late and make up the time. She said he never documented concerns about her attendance in her personnel file. She said he did talk to her about it, but only after they had a falling out.

We spoke with that supervisor, who said there was a period of time when Subject 1 could not get to work at 7 a.m., but was able to arrive by 7:30 a.m. It was during this time he allowed her to make up 30 minutes at the end of her shift doing administrative work. At some point, he began questioning whether she made up the time or put in leave because he did not have access to her leave. He said the administrator overseeing the security unit has always reviewed and approved the leave. When he attempted to speak with her about her absences, she got upset. He said it was his job as her supervisor to address these concerns, and although he had no access to review leave submittals, he was held accountable by administration if issues arose surrounding leave.

When asked what she did when making up time, Subject 1 responded, "work security." Witnesses said when swing shift is fully staffed there is no work for her to do.

We found Subject 1 did not document deviations from her scheduled shift on her timesheet. Instead, she entered her scheduled hours and not her actual hours of work. She said all security employees record their hours in this way. Witnesses confirmed this statement.

We compared Subject 1's timesheets, leave data, and gate activity from May 1, 2015, through June 30, 2016, and found:

- Subject 1 did not accurately document her work hours on her timesheet.
- Subject 1's timesheets showed she worked 274 shifts; 183 of those shifts recorded no gate activity.

- Subject 1's recorded gate activity (91 shifts) showed she arrived more than 30 minutes late for 25 shifts with no leave submitted.

Subject 1's late arrivals accounted for approximately 53 hours; we found no corresponding leave submitted.

Based on Subject 1's late arrivals and lack of accurate accounting of work hours, and taking into consideration witness statements that she consistently arrived late and often left early, we found reasonable cause to believe Subject 1 failed to submit leave for absences from work.

### *Subject 2*

Subject 2 is a shift supervisor responsible for scheduling security staff.

We reviewed Subject 2's timesheets, leave slips, and gate key records. Based on the gate key records, we found that from May 1, 2015, through November 30, 2015, Subject 2 arrived on average, approximately one hour early for 64 shifts. Subject 2's timesheets do not reflect the times he came in early, but only his actual scheduled shifts. Although the gate key records reveal otherwise, Subject 2 said he worked his scheduled hours – the ones recorded on the timesheets. He said everything he entered on his timesheet was accurate; he came to work before his scheduled shift and often stayed late. He said he does not understand why someone would say he is not working when they do not know when he comes in and when he leaves.

Because each shift is scheduled with the necessary security personnel to cover the needs of the facility, we asked Subject 2 what work he did when he came in early. In response, he said he does "job duties."

Witnesses said Subject 2 did not work when he arrived early for fully staffed shifts, because there was no work for him to do. For example, if he comes in early for a swing shift, all of the keys have been signed out to day staff, so Subject 2 would not even have keys to do any work. Witnesses also said Subject 2 consistently leaves his shifts early, leaving the facility short-staffed, which may put staff and residents at risk. Witnesses said Subject 2 worked hours that fit his needs, not the needs of the facility.

Because Subject 2 did not accurately record the hours he worked on his timesheets and there is no record of when he left the facility, we were unable to quantify the number of hours of leave he may not have submitted. If Subject 2 arrived early and worked through his scheduled shift, it was not reflected in overtime compensation, which he may have qualified for after working 40 hours each week. It should be noted that Subject 2 did claim some overtime, just none for the extra hours he may have worked in these situations. If he arrived early and worked eight hours and then left, he overstaffed the facility at the onset and understaffed the facility when he departed, which could cause a safety issue.

We spoke with Subject 2 regarding the results of our data review to get his perspective. Subject 2 showed little interest in reviewing the data and responding to questions. He said he would be happy to discuss his time and attendance with us if we had hard evidence to present; otherwise, he worked the hours entered on his timesheet.

Due to the lack of information available, we were unable to determine whether Subject 2 failed to submit leave for absences from work.

### *Subject 3*

We reviewed Subject 3's timesheets, leave slips, and gate key records. Based on the gate key records, we found that from May 1, 2015, through November 30, 2015, Subject 3 arrived on average about one hour early for 52 shifts. Subject 3's timesheets do not reflect the times he came in early, but only his actual scheduled shift. Contrary to what the gate key records revealed, Subject 3 said he worked his scheduled hours, as recorded on his timesheet.

Because each shift is scheduled with the necessary security personnel to cover the needs of the facility, we asked Subject 3 what work he did when he came in early. In response, he stated he "performs work duties."

Witnesses said it was difficult to figure out when Subject 3 was working because he was constantly coming and going. They said he consistently left early, leaving shifts short-staffed.

Witnesses said there was no business need for Subject 3 to come in early to a fully staffed shift and no work for him to do. Witnesses said that as with Subject 2, Subject 3 worked hours to fit his needs, not the facility's. Witnesses said Subjects 2 and 3 "absolutely" leave early, but show no concern with administration finding out because they know it will not be addressed.

Because Subject 3 did not accurately record the hours he worked on his timesheets, we were unable to quantify the number of hours of leave he should have submitted. If Subject 3 arrived early and worked through his scheduled shift, it was not reflected in overtime compensation, which he qualified for after working 40 hours each week. It should be noted that Subject 3 did claim overtime, just none for the extra hours he may have worked in these situations. If he arrived early and worked eight hours and then left, he overstaffed the facility at the onset and understaffed the facility when he departed, which could cause a safety issue.

We spoke with Subject 3 regarding the results of our data review to get his perspective of the situation, but he showed no interest in the data or responding to questions.

Due to the lack of information available, we were unable to determine whether Subject 3 failed to submit leave for absences from work.

### *Additional information*

Witnesses said the practice of coming in late and leaving early has occurred for many years and is considered a “culture” at Echo Glen. They said administration has been aware of the practice and has never done anything to stop it.

Witnesses explained that the security supervisors, who are aware of when employees work, did not approve leave; instead, it was approved by AT, who was not aware of the employee’s work hours. When the system’s potential for abuse was brought to AT’s attention, witnesses said she showed little interest in addressing it.

AT said it was her expectation that employees stayed late to make up time or submitted leave and that she approved the leave slips that she received. Regarding how they may have made up time, she said they could respond to safety or medical emergencies or if someone called in sick they could stay until relief arrives.

Witnesses said none of the three subjects could have accrued enough leave to cover the amount of time they were absent from work. Witnesses said the administration allowed the subjects to “run the place,” and the subjects knew nothing would be done to address the leave issues.

Witnesses said they fear retaliatory actions if they voice their concerns to the administration. They said administration put one employee under investigation after he voiced his concern, and transferred him to another facility.

During our investigation, we found the employee, referenced in the paragraph above, met with Echo Glen’s superintendent on April 21, 2016, regarding the three subjects not working their full shifts and not submitting leave for their absences. AT said the superintendent discussed the employee’s complaint with her and told her “to take care of it.” AT said around that same time Subject 1 submitted a complaint about the employee and she directed PB to forward both complaints to the Department’s internal investigation unit.

We found PB forwarded Subject 1’s complaint, but not the employee’s complaint. When we asked her why she forwarded only the one complaint, she said the employee informed them he was “blowing the whistle” and, after consultation, they decided to treat his complaint as a whistleblower complaint and not forward it to the internal investigation unit. The complaint was never forwarded to our Office.

When asked why she did not forward the whistleblower complaint to our Office, PB said that after consulting with Echo Glen’s human resources representative, they determined the employee’s email indicated he was filing a whistleblower complaint with our Office. PB said it is her understanding that once a whistleblower complaint is filed, the Department does not do anything that may affect the process. She said she did not clarify with the employee if he wanted to file a whistleblower complaint through the Department.

## Recommendations

We recommend the Department improve its internal controls at Echo Glenn, and establish policies and procedures to ensure:

- Records are retained in accordance with state law.
- Logs are complete and legible.
- Employee timesheets reflect actual hours worked.
- Designated Department officials are notified when a state employee desires to file a whistleblower complaint.

## Department's Plan of Resolution

*Echo Glen Children's Center, Juvenile Rehabilitation Administration, Department of Social and Health Services acknowledge receipt of the Whistleblower Investigation Report from the Washington State Auditor's Office file# 16-026. The Department appreciates the assistance of the State Auditor's Office in developing important facts in its investigation.*

*With respect to the reasonable cause finding for Subject 1, we will review the facts and circumstances related to the employee's attendance. 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 action up to and including dismissal.*

*In response to the recommendations outlined in the report, Echo Glen Children's Center Administration will implement the following actions:*

1. *Records are retained in accordance with state law.*

*Echo Glen will review DSHS Administrative Policy 05.04: Records Retention and implement the retention policy for the school movement tracking and security vehicle logs.*

2. *Logs are complete and legible.*

*We will develop and implement policy and procedure related to the school movement tracking log and vehicle logs for security unit vehicles to ensure they are complete and legible.*

3. *Employee timesheets reflect actual hours worked.*

*We will retrain security department supervisors and manager on personal and supervisory responsibilities related to timekeeping and scheduling policies and practices.*



*This will include leave tracker expectations, shift changes requirements and ethical standards.*

*We will retrain security department staff on expectations of leave tracker, shift change requirements and ethical standards. Employees will sign off that they understand time keeping and scheduling expectations consistent with their position and role.*

- 4. Designated Department Officials are notified when a state employee desires to file a whistleblower complaint.*

*We will review RCW 42.40, State Whistleblower Program expectations with the designated DSHS public officials and the Echo Glen Administration.*

### **State Auditor's Office Concluding Remarks**

We thank Department officials and personnel for their assistance and cooperation during the investigation. We will follow-up with the Department within one year to determine if the corrective actions listed above have been implemented.

## 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.