



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

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

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June 26, 2017

Bill Moss, Acting Secretary  
Department of Social and Health Services

**Report on Whistleblower Investigation**

Attached is the official report on Whistleblower Case No. 17-017 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  
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 (subject) used state resources for personal gain and did not submit leave when he reported to work late, left early or was absent.

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

## About the Investigation

The subject works in the Department's Services and Enterprise Support Administration. His main tasks are strategy and governance in process change and business improvement. According to his supervisor, the subject's job is to "make geek speak make sense."

### *Computer Use*

We obtained the subject's hard drive and created a forensic report based on the data retrieved. The computer's normal processes had overwritten some of the Internet history files and as a result, our review of the subject's Internet history was limited to November 14, 2016, through February 15, 2017.

We found the subject spent approximately 92 hours browsing LinkedIn, a business-oriented social networking website.

We found the subject used his state computer to write and publish personal blogs to LinkedIn. In some cases, the subject uploaded PowerPoint presentations he created as part of his employment with the Department. In one instance, the subject used a computer program – licensed to the Department – to create an assessment, which he then included in his blog. During a review of the subject's emails, we found he emailed PowerPoint presentations, created as part of his employment, to his personal email address.

During an interview, the subject said LinkedIn is "always open" on his screen and he interacts with it all day. He said it is a powerful tool that allows him to collaborate with industry CEOs and thought leaders, and although there are other platforms for conducting research, he uses LinkedIn exclusively and believes it is the most effective.

The subject said he publishes blogs to LinkedIn to get feedback and input before sharing the content with the Department. He believed uploading Department work product to his blog was permitted, as long as the content was not confidential. Regarding the PowerPoint presentations sent to his personal email, the subject said it was to preserve a backup of his work.

The subject's direct supervisor and the Department's Chief Information Officer said LinkedIn is one of many tools used by staff. However, both said the amount of time the subject spent on

LinkedIn was excessive. They also said he should not have uploaded any Department work product to the Internet, or emailed it to his personal email address, without authorization.

At times, the subject's excessive access to LinkedIn may have been work-related; however, researching, writing and publishing personal blogs is not.

### *Work Hours*

In February 2017, during an initial meeting with our Office, the subject said his work schedule was Monday through Thursday 8 AM to 5 PM, and working from home on Fridays. He was unable to identify what hours he worked on Fridays, or what work he accomplished, other than to say he does "a lot of research, a lot of studying" and "a lot of compilation of data." He told us he has never worked a four 10-hour shift or had Fridays off.

From his hire date in August 2016 until November 20, 2016, the subject's official schedule was Monday through Friday, 8 AM to 5 PM, with a one-hour lunch. In November 2016, he requested a schedule change. Beginning November 21, 2016, the subject's official schedule was Monday through Thursday, 7 AM to 6 PM, with a one-hour lunch, and Fridays off.

The subject works in a secure area where employees must scan their employee cards to enter. We examined the subject's entry logs and his computer event log – a record of each time he logs in and out of his computer. We found that between August 15, 2016, and February 2, 2017, the subject arrived for work an average of 44 minutes late, and logged off his computer an average of 90 minutes early. We also found three days, for a total of 26 hours, when the subject stayed home due to illness or weather, but did not submit leave.

Although the subject is not required to complete a timesheet, he is expected to work 40 hours each week. We found during the 25-week review period, the subject received compensation for 1,000 hours, when in fact he worked or submitted leave for 787 hours.

During an interview, the subject denied he had initially told our office he works from home on Fridays. He said there is no specific day each week he works from home, but that he works from home "all the time" and "everything I do is for this place." The subject acknowledged that he does not have an Internet connection or a state computer at home. He said when at home, his work consists only of browsing LinkedIn on his cell phone.

The subject said the reason it appears he is late for work every morning, is because instead of going directly to his workstation, he eats his breakfast and browses LinkedIn on his phone in the building's café. He considers this activity work. In response to our review of his computer's event log as it relates to his early departures, he said it is not accurate because he could have logged off his computer and then remained to talk to co-workers for an hour or two.

When asked why he failed to submit leave for three days, the subject said he “thought other people did it” for him. We found, prior to his absences, the subject had received emails from his supervisor and other staff with information on the process of submitting leave.

### *Conclusion*

A state ethics rule (WAC 292-110-010(3)(a)) requires all state employees to be responsible for the proper use of state resources, including their time. The rule permits the de minimis personal use of state resources as long as the use meets certain criteria, including that the use is brief and infrequent.

The subject did not submit leave for all of his absences, and his personal use of the state computer was not de minimis. Therefore, we found reasonable cause to believe an improper governmental action occurred.

### **Department’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. 17-017. The Department of Social and Health Services takes the assertions seriously and appreciates the assistance of the SAO 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 action up to and including dismissal.*

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

We understand the Department must follow applicable collective bargaining agreements and agency policies. State law requires the Department to take appropriate actions to resolve this matter. We will follow-up within one year to determine whether the Department complied with the law.

## WHISTLEBLOWER INVESTIGATION CRITERIA

We came to our determination in this investigation by evaluating the facts against the criteria below:

### **RCW 42.52.160(1) - 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(1) - Use of state resources.**

(1) Statement of principles. All state employees and officers are responsible for the proper use of state resources, including funds, facilities, tools, property, and their time. This section does not restrict the use of state resources as described in subsections (2) and (3) of this section.