



Office of the Washington State Auditor
Pat McCarthy

Whistleblower Investigation Report
Department of Social and Health
Services

Published March 29, 2018

Report No. 1021069





Office of the Washington State Auditor
Pat McCarthy

March 29, 2018

Cheryl Strange, Secretary
Department of Social and Health Services

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 18-002 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.

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 non-work-related purposes.

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

About the Investigation

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 June 7, 2017 through September 25, 2017.

We found the subject conducted personal browsing on 60 days during the review period. Most of the subject's personal browsing was on Facebook. Because the browser does not record activity when a user scrolls their Facebook feed, we could not determine the amount of time she spent on Facebook; however, we found she frequently visited the site. The subject accessed Facebook more than 4,000 times and went to her personal Facebook profile 998 times, or an average of 16 times each day. Additionally, we found the subject visited other non-work-related websites related to online classifieds, real estate, recipes, news, and collectibles.

During an interview, the subject said she leaves Facebook open throughout the day to communicate with family members when she does not have cell phone service. She said she used her computer to search for apartments, as many property management companies have the same business hours she does.

A state ethics rule (WAC 292-110-010(3)(a)) permits the de minimis personal use of state resources as long as the use is brief and infrequent. The subject frequently used her state computer to access non-work-related sites. 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. 18-002. 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 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 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.

(2) Permitted personal use of state resources. This subsection applies to any use of state resources not included in subsection (2) of this section.

(a) A state officer or employee's use of state resources is de minimis only if each of the following conditions are met:

(i) There is little or no cost to the state;

1. (ii) Any use is brief;

2. (iii) Any use occurs infrequently;

3. (iv) The use does not interfere with the performance of any state officer's or employee's official duties;

4. (v) The use does not compromise the security or integrity of state property, information systems, or software;

5. (vi) The use is not for the purpose of conducting an outside business, in furtherance of private employment, or to realize a private financial gain; and

a. (vii) The use is not for supporting, promoting the interests of, or soliciting for an outside organization or group.