



Office of the Washington State Auditor
Pat McCarthy

Whistleblower Investigation Report
Department of Social and Health
Services

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January 14, 2019

Cheryl Strange, Secretary
Department of Social and Health Services

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 18-041 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 Director of Communications Kathleen Cooper at (360) 902-0470. Otherwise, please contact Assistant Director of State Audit Troy Niemeyer at (360) 725-5363.

Sincerely,

Pat McCarthy

State Auditor

Olympia, WA

cc: Governor Jay Inslee
Andy Colvin, Discovery and Ethics Administrator
Kate Reynolds, Executive Director, Executive Ethics Board
Cristopher de la Peña, Investigator

WHISTLEBLOWER INVESTIGATION REPORT

Assertions and Results

Our Office received a whistleblower complaint asserting a Department of Social and Health Service (Department) employee (subject) used state resources for non-work related purposes, arrived late to work several times and took long breaks without submitting leave.

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

About the Investigation

The Department gave our Office the subject's hard drive, emails and leave records from May 24, 2017, through May 23, 2018. We reviewed the data and spoke with the subject and her supervisor.

The complaint asserted the subject used her computer and work email for non-work related purposes. We found 22 minutes of personal internet browsing that occurred over four non-consecutive days. The longest instance of continuous personal browsing was 14 minutes. We found the subject used her email only for work-related purposes.

A state ethics rule (WAC 292-110-010(3)(a)) permits de minimis personal use of state resources as long as the use meets certain criteria, including that it is brief and infrequent. We found the subject's use of state resources for non-work-related purposes to be de minimis.

The subject teleworked full-time for about four years until February 2018. The complaint asserted the subject began arriving late in March 2018 after returning to work in the office.

We found the subject consistently submitted leave for absences from work.

During an interview, the subject said she arrived late to work two to three times a week for a few weeks after she began working in the office. She said that after teleworking for so long she found it difficult to adjust. She said a co-worker talked to her about her late arrivals and then her supervisor spoke to her about it. The subject said her supervisor would allow her to make up the time if she was around 10 minutes late. She said if she arrived more than 10 minutes late her supervisor had her submit leave.

The subject's supervisor said she arrived late about two or three times a week for a few weeks after she began working in the office. He said he allowed the subject to make up time occasionally. The supervisor said he spoke to the subject about her lateness sometime in March 2018 and since then the subject no longer had an issue coming in late.

The complaint also asserted the subject took breaks longer than 15 minutes starting in March 2018.

The subject said she did not realize her breaks were longer than 15 minutes until a co-worker spoke to her about it. She said her supervisor spoke to her about it and advised her to set a timer on her phone to remind her to end breaks. The subject said she has not had issues with the length of her breaks after that.

The supervisor said he noticed the subject taking breaks that lasted approximately 30 minutes. He said he had two meetings with her about her breaks, on April 19, 2018, and May 4, 2018. He said during the meeting on May 4, 2018, he suggested she use her phone's timer to limit the length of her breaks. The supervisor said after the May 4, 2018, meeting the subject's breaks were no longer an issue.

We found two emails sent by the subject's supervisor regarding her breaks. The first email dated April 19, 2018, cautioned the subject that her breaks were longer than 15 minutes. The second email dated May 4, 2018, summarized a meeting between the supervisor and the subject regarding the subject's breaks.

The subject's supervisor addressed the subject's lateness and long breaks when he became aware of the issues. The supervisor worked with the subject to resolve the issues described in the whistleblower complaint prior to the complaint being filed with our Office. Therefore, 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 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.

(3) 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;
- (ii) Any use is brief;
- (iii) Any use occurs infrequently;
- (iv) The use does not interfere with the performance of any state officer's or employee's official duties;
- (v) The use does not compromise the security or integrity of state property, information systems, or software;
- (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
- (vii) The use is not for supporting, promoting the interests of, or soliciting for an outside organization or group.