



# Washington State Auditor's Office

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## Whistleblower Investigation Report

# Department of Social and Health Services

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January 9, 2017

Patricia Lashway, Secretary  
Department of Social and Health Services

### **Report on Whistleblower Investigation**

Attached is the official report on Whistleblower Case No. 16-019 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, 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 the former chief executive officer (subject) of the Special Commitment Center (the Center) failed to ensure emergency medical staffing was consistent with state rules.

We found emergency medical staffing was not consistent with state rules; however, we could not contribute this failure solely to the subject.

## Background

The Center, operated by the Department of Social and Health Services (Department), is a mental health treatment facility for civilly committed sex offenders (residents) who have completed their prison sentences. The Center is situated on McNeil Island, west of Steilacoom, and is accessible only by boat or air. There are about 250 residents and between 40 and 80 Department staff on the island at any given time.

The Center’s fire department on the island is an “all hazard response” team: Firefighters are responsible for responding to all emergencies involving hazardous materials, rescue, fire, water and medical incidents on the island and in the surrounding water.

The fire department, which has ambulances and a speed boat for transportation off the island, is licensed by the Department of Health as a trauma verified ambulance service. According to state rules governing its license, the fire department is required to have at least two certified individuals at all times to provide care and transport in medical emergencies.

## About the Investigation

The fire department has six firefighter positions, including the chief, who are all certified emergency medical technicians (EMT); each works a 24-hour shift, except for the chief, who works from 8 a.m. to 5 p.m. Monday through Friday. This is not sufficient to staff two EMTs at all times. As a result, in many instances, especially outside of normal business hours, there is only one firefighter/EMT on shift at the fire department.

We examined incident response data for the 88 fire and medical incidents from January 1, 2015, through May 12, 2016. As **Exhibit 1** shows, we found 33 incidents (38 percent) when only one EMT responded to the incident. For 23 incidents (26 percent) the number of responders was not recorded.

<b>Exhibit 1 – Incident Response</b>	
One EMT	33
Two or more EMTs	32
Unknown	23
<b>Total Incidents</b>	<b>88</b>

Witnesses said EMTs have been forced during medical emergencies to request assistance from staff who are not trained in first aid or the operation of emergency vehicles. While the facility does have nurses who are able to assist when available, they do not have the EMT training necessary to meet the legal requirements.

Witnesses said they brought concerns regarding the lack of staffing to the subject "many times" and were told there was not enough money in the budget. They said the subject was first notified of the staffing shortage during a March 2014 fire department meeting, and that he responded by saying he would hire more fire department staff.

Shortly afterward, witnesses said, the subject created a mid-level security supervisor position for the Center, and required the position to be EMT trained within six months of appointment. Many of the staff who served in this position failed the training, failed to follow up with national certification or declined requests to assist during a medical emergency.

The use of Center staff to meet the legal requirements for ambulance staffing causes a problem because the EMT portion of the staff's duties is secondary to their primary work duties. As a result, EMT certification is not considered when staff are chosen for day shifts, which can leave other shifts without full EMT coverage. This has resulted in an uneven distribution of emergency medical responders.

Also, when emergency off-island transport of a resident is required, security staff must remain with the resident until they return to the island. In instances when a fire department EMT and a Center staff EMT respond, the fire department EMT returns to the island alone and is then the only emergency responder available for the remainder of that shift.

In November 2014, the Center submitted an ambulance license renewal application to the Department of Health. The subject signed the application, certifying that the Center met the minimum staffing requirements for licensure. However, the application disclosed that the Center did not have sufficient staffing to meet the legal requirements for ambulance service. It also disclosed that when only one EMT was on shift, the ambulance was driven by that EMT, leaving the patient in the patient compartment with staff who were not medically trained.

In a February 6, 2016, email to the subject, a fire department staff member calculated the cost to meet the legal requirement for EMT staffing for January 2016. He calculated the Center would have had to cover "21 additional shifts" for the month of January. The subject responded within nine minutes of receiving the email, writing that the Center had "no money to support this."

Witnesses said the subject “did not understand” fire department operations and “did not support additional firefighters.” Some witnesses said they believed it would take a “catastrophic incident” to get the required staffing.

During an interview, the subject said there were conflicting priorities for budget dollars and that “Nothing, by law, requires firefighters on the island.” He said he put in a request for budget items every year, but could not remember if a request for more fire department staff was ever included. He supported adding more firefighters conceptually, but said “the money wasn’t there” and it is “not accurate to say that nothing was done – we did have a fix in place.” He said Department management was aware of the staffing shortage, and although he could not recall a specific conversation, said it was “discussed often” and “in a bucket list of needs.”

We reviewed all of the budget requests submitted by the subject, and did not find any requests for additional fire department staffing. However, we spoke with the assistant secretary of the Department’s rehabilitation administration, who said the Department was aware of the staffing problems, but there was a funding shortage. He said, “The reality is there is hardly ever a fire” and if the Center hired additional firefighters it “would be paying a considerable number of people who had no meaningful job to do.”

The subject left his position in April 2016. After the subject left his position, the current chief executive officer submitted an internal budget request for additional fire department staff. On October 26, 2016, the assistant secretary’s special assistant told us the request is “still being reviewed by the [D]epartment” and was not included in the Department’s budget request submitted for consideration in the Governor’s budget. On November 3, 2016, he notified our Office that “the Department has submitted an additional request” for four full-time firefighters.

We found Department management was aware of the staffing issues at the Center. Therefore, we found no reasonable cause to believe the subject was solely responsible for not complying with state rules.

## **Department’s Response**

*The Department is committed to operating programs on McNeil Island for the Special Commitment Center in a safe and secure manner. The Chief Executive Officer is tasked with operating the SCC within the budget allotted by the legislature. When the Department of Corrections had a prison on the island they provided fire and medical services to the SCC. When the DOC closed their institution the need for emergency response was significantly reduced. This responsibility was transferred to the DSHS. To support the limited need for emergency medical response a small fire department is now maintained. These fire fighters operate as the lead emergency responders and are supplemented by employees at the total confinement center who are trained as fire responders and others trained as Emergency Medical Technicians. Funds specific to these training needs are part of the current budget.*

*The Department acknowledges that maintaining an adequate level of trained supplemental staff has been a challenge. To meet this challenge, the Department did submit a request to the Office of Financial Management for additional full time professional fire fighters for Fiscal Year 2017-2019 budget. In addition, recent efforts to aggressively recruit and train staff for emergency response are anticipated to meet the level of supplemental staff needed.*

### **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:

**WAC 246-976-260 - Licenses required**, states in part:

(1) The secretary licenses ambulance and aid services and vehicles to provide service that is consistent with the state plan and approved regional plans.

(2) To become licensed as an ambulance or aid service, an applicant must submit:

(d) The level of service to be provided: Basic life support (BLS), intermediate life support (ILS), or advanced life support (ALS) (paramedic); and the scheduled hours of operation. Minimum staffing required for each level is as follows:

(ii) For ambulance services:

(A) A BLS level service will provide care and transport with at least one emergency medical technician (EMT) and one person trained in advanced first aid.

**WAC 246-976-390 - Trauma verification of prehospital EMS services**, states in part:

(1) The secretary verifies prehospital EMS services. Verification is a higher form of licensure that requires twenty-four-hour, seven day a week compliance with the standards outlined in chapter 70.168 RCW and this chapter. Verification will expire with the prehospital EMS service's period of licensure.

(4) Personnel requirements:

(b) Verified ambulance services must provide personnel on each trauma response including:

(i) Basic life support: At least two certified individuals - one EMT plus one EMR.