



Office of the Washington State Auditor
Pat McCarthy

Whistleblower Investigation Report

Department of Corrections

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March 13, 2017

Jody Becker-Green, Acting Secretary
Department of Corrections

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 17-003 at the Department of Corrections.

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
Vicki DeBoer, Audit Director/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 a Department of Corrections (Department) employee (subject) at Airway Heights Corrections Center (Center) used Department staff mailboxes to deliver union election flyers.

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

About the Investigation

We reviewed the subject's emails and found an email she sent to the Center's superintendent, with the subject line "Teamsters"; attached to the email was a flyer. Within the email, the subject informed the superintendent she had used her personal resources to create the flyer, but had used the Center's mailboxes to distribute it to those union staff members for whom she did not have personal email addresses.

The flyer invited union members to the subject's home to meet with the union president and secretary-treasurer, who were running for office. The bottom of the flyer noted, "This event is being held off site to comply with contract rules as it is a campaign/election year."

We spoke with the subject who said she notified the superintendent after distributing the flyers in the staff mailboxes.

When asked what the Department policy is regarding the use of the staff mailboxes for this purpose, the superintendent said that as a shop steward, the subject could use the mailboxes for union business, with the exception of election-related information.

State rule (WAC 292-110-010(3)(a)(vii)) says a state employee's de minimis use of state resources is permitted if the use is not for supporting, promoting the interests of, or soliciting for an outside organization. Because the subject used the Center's mailboxes to deliver a union election flyer, we found reasonable cause to believe an improper governmental action occurred.

Agency's Plan of Resolution

The Department considers any ethics violations to be serious. The Appointing Authority has reviewed the draft report and is prepared to follow established procedures to determine the appropriate action to take. The process will abide by the Collective Bargaining Agreement with the Teamsters Local Union# 117.

State Auditor's Office Concluding Remarks

We thank Agency 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:

Assertion:

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.

WAC 292-110-010 - Use of state resources

(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.