



Office of the Washington State Auditor
Pat McCarthy

Whistleblower Investigation Report

Department of Ecology

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June 1, 2017

Maia Bellon, Director
Department of Ecology

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 17-013 at the Department of Ecology.

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

Kate Reynolds, Executive Director, Executive Ethics Board

Sandi Stewart, Human Resources Director

Jacque Hawkins-Jones, Investigator

WHISTLEBLOWER INVESTIGATION REPORT

Assertion and results

Our Office received a whistleblower complaint asserting a Department of Ecology (Department) employee (subject) was leaving work to oversee the construction of his outside business and failing to submit leave for those absences. The complaint also asserted the subject is consistently late for work.

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

About the Investigation

The complaint alleged the subject left work for several hours during the day to oversee his outside business. Historically, we have found that employees who use one state resource, also tend to use other resources, such as state computers, for personal use. For this reason, we requested the subject's leave records and email folders for one year, and copies of his network folders and hard drive. Although the Department has areas that require key card access, the individual employees do not have to use their cards. According to the Department's human resources manager, during the investigative period, the doors were often propped open or held open for others to enter. For this reason, we did not review key card entry data.

A review of the subject's computer data revealed no activity related to his outside business. Because we had no evidence related to his purported work absences, we were unable to use the leave reports.

We interviewed the subject who explained that when he realized he would need more time for his outside business, he adjusted his schedule, reducing the number of hours he worked. He said that before filing for his business license, he submitted to the Department the appropriate documentation regarding his outside business. We reviewed the documentation to confirm this statement.

Regarding the assertion that the subject is consistently late for work, we found the complainant incorrectly identified the subject's start time. Based on his correct start time we did not find evidence supporting the assertion.

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) and (3) 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.