



**Office of the Washington State Auditor**  
**Pat McCarthy**

**Whistleblower Investigation Report**  
**Department of Social and Health**  
**Services**

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November 9, 2017

Cheryl Strange, Secretary  
Department of Social and Health Services

**Report on Whistleblower Investigation**

Attached is the official report on Whistleblower Case No. 17-031 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 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

The subject works in the Complaint Resolution Unit of the Aging and Long-Term Support Administration. Her responsibilities include receiving and documenting complaints regarding alleged failure to provide care and services to individuals in residential care settings.

### *Internet Browsing*

Our Office 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 April 21, 2017, through July 12, 2017.

We found the subject used her computer for non-work-related Internet browsing for 93.5 hours over 46 work days. Her browsing included 37 hours related to another person's college coursework and 33 hours shopping.

During an interview, the subject acknowledged the personal browsing was not appropriate. She said she often browses or mindlessly scrolls websites while on hold or during down times.

### *Documents and Emails*

The subject had 475 non-work-related documents on her computer, including 353 documents related to another person's college coursework. We found essays authored by the subject and submitted to an online college under another person's name. The subject acknowledged that she wrote the essays for a friend.

We obtained a copy of emails sent and received by the subject from May 1, 2016, through June 1, 2017. We found the subject used her state email account to send and receive 1,859 personal emails to friends and family outside the state system. In addition, the subject and four of her co-workers exchanged 213 emails gossiping about other co-workers. The emails contained comments regarding co-workers' weight, appearance, eating and bathroom habits. In many of the emails they used offensive nicknames when referring to co-workers.

We also found 32 emails between the subject and four co-workers containing portions of complaints regarding abuse or neglect of vulnerable adults. The emails included subject lines

such as “LOL” (laugh out loud) and other words indicating that the subject and her co-workers thought the contents were funny. In one email sent to a co-worker, the subject wrote, “Um, when you get reports regarding toileting and masturbation, you are required to share with this corner as we are immature and find them amusing.” In another, after some back and forth, a co-worker wrote, “Delete, delete, delete!” The subject responded, “Yep!!!”

During an interview, the subject said she knew it was not right to send all of the personal emails or the ones about her co-workers, but had no further comment. The subject said she thought the emails about vulnerable adults were OK because they were “in house” and contained no protected information. She said she was “very careful” with how these emails were written so as not to disclose any protected information. She went on to say she knows she should not laugh, but “some of them are so weird and funny, it went in an email.” She said she has an agreement with her friends in the office to send her an email when they “find this funny stuff.”

### *Conclusion*

A state ethics rule (WAC 292-110-010(3)(a)) requires all state employees to be responsible for the proper use of state resources. The rule permits the de minimis personal use of state resources as long as the use meets certain criteria, including that the use is brief and infrequent. Additionally, Department policy prohibits the use of state provided email to create, transmit, or voluntarily receive offensive, libelous, threatening or harrassing material. We determined the personal use was beyond de minimis and may have violated Department policy.

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. 17-031. 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.*

*The subject of the investigation resigned from their employment with the Department effective October 19, 2017. Therefore, the Department will not proceed with further personnel action. The Department sent a letter to the subject indicating that, had they not resigned, the Department would have further investigated the matter and taken any disciplinary action deemed appropriate. A copy of this letter will be placed in the subject’s personnel file. A copy of the letter is also enclosed for your records as documentation of the action taken by the agency for this case.*

## **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.