



Office of the Washington State Auditor
Pat McCarthy

Whistleblower Investigation Report

Department of Corrections

Published May 24, 2018

Report No. 1021445





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Stephen Sinclair, Secretary
Department of Corrections

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 18-004 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
Liana Dupont-Smith, 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 Community Corrections Specialist (subject) failed to submit leave for all of her absences from work. Specifically, she arrives late, leaves early, and takes extended breaks, all of which keeps her from doing her assigned duties.

Because of the lack of evidence the Department provided, we were unable to determine whether an improper governmental action occurred.

Background

The Department of Corrections provides offenders the opportunity to participate in various behavioral programs. The subject of this investigation is a facilitator for the Thinking for a Change (T4C) program, which helps the offenders understand how unproductive thoughts can lead to unproductive behaviors and how to restructure their thoughts and feelings so they can respond to situations more appropriately.

About the Investigation

Our Office requested the subject's hard drive on September 26, 2017; however, the Department did not secure the hard drive until December 13, 2017. Our Office received a forensic copy of the hard drive on January 5, 2018.

When investigating personal-use issues, our Office typically obtains a copy of the subject's hard drive to review the past year of user data such as internet browsing and event logs, which are used to show when a person logs on and off their computer.

Because data is stored and overwritten according to computer settings, the volume and usefulness of the available data varies. By the time we received the hard drive for this investigation, much of the data within our time scope was overwritten, limiting the internet history to 40 non-sequential days.

In addition to the hard drive, we requested the subject's time sheets, leave reports and emails for the past year. Of all the evidence provided for our review, we were able to align each element to only six days within our time scope. Because of the lack of concrete evidence, we were unable to use the computer data in this investigation.

Even though we received an entire year of emails, time sheets and leave reports, none of this evidence alone is enough to determine when the subject was working or on leave. This information combined with computer data is sufficient to draw a conclusion. Even so, we did find emails sent by the subject during her scheduled workdays. However, when we found gaps in these emails we

were unable to determine whether the subject was teaching classes or conducting outreach because there were no available schedules to use to compare, nor did we have computer data.

During an interview, the subject said that she teaches classes for offenders enrolled in T4C, which also requires her to spend time updating the offender database. She also conducts T4C outreach, which takes her away from the office. She said she keeps her supervisor apprised of her schedule and her whereabouts.

The subject's supervisor said that considering the subject's job duties, it would be very noticeable if she did not come to work or if she left early. The supervisor said she does not require the subject to tell her when she is leaving the office for work purposes, only when she is going to take leave or change her schedule. She had no concerns with the subject's attendance.

State ethics laws allow personal use of state resources as long as it is de minimis, which means the use is brief and infrequent. When the data provided to review is sporadic, we are unable to show a pattern of use, which would enable us to determine whether the use was de minimis.

Based on inadequate evidence, we were unable to determine whether 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.