



Office of the Washington State Auditor
Pat McCarthy

Whistleblower Investigation Report
Department of Social and Health
Services

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October 25, 2018

Cheryl Strange, Secretary
Department of Social and Health Services

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 18-043 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 Director of 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, Discovery/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

We 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, limiting our review of the subject's internet history limited to February 12, 2018, through July 12, 2018.

We found the subject used her computer for non-work-related internet browsing for 39.2 hours during that six-month period. Her browsing included visiting sites related to housing, banking, vehicles, entertainment news, and pet care.

During an interview, the subject did not dispute that she used it for personal purposes, and said she thought she could use her computer for non-work-related browsing during her breaks. However, she said she believed her searches for housing were work related as she was considering transferring to another city for work.

A state ethics rule (WAC 292-110-010(3)(a)) permits the de minimis personal use of state resources as long as the use is brief and infrequent. The subject's use of her state computer to access non-work-related sites was not brief nor infrequent. Therefore, we found reasonable cause to believe an improper governmental action occurred.

Department's Plan of Resolution

In accordance with the Collective Bargaining Agreement between the state of Washington and the Washington Federation of State Employees Article 27 - DISCIPLINE, the Department will afford the employee an opportunity to respond to the State Auditor's Whistleblower Report as well as to any additional investigation results. The Department will then make a final determination on whether misconduct by the employee has occurred and what level of disciplinary action is appropriate to take, if any.

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.