



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

# **Whistleblower Investigation Report**

## **Department of Licensing**

**Published July 1, 2019**

**Report No. 1024227**





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Pat McCarthy**

July 1, 2019

Teresa Berntsen  
Department of Licensing

**Report on Whistleblower Investigation**

Attached is the official report on Whistleblower Case No. 19-022 at the Department of Licensing.

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 Assistant Director of State Audit Troy Niemeyer at (360) 725-5363.

Sincerely,

Pat McCarthy  
State Auditor  
Olympia, WA

cc: Governor Jay Inslee  
Jamie Black, Deputy Chief Audit Executive  
Kate Reynolds, Executive Director, Executive Ethics Board  
Jacque Hawkins-Jones, Investigator

## WHISTLEBLOWER INVESTIGATION REPORT

### Assertion and Results

Our Office received a complaint asserting a member of management (subject) at the Department of Licensing granted permission for employees to participate in an art walk where employees can sell handcrafted items or services to other employees while on state time. It also asserted the art walk did not have any affiliation to a sanctioned fundraiser and profited only the employees who sold their items or services.

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

### About the Investigation

We reviewed the subject's email files from January 1, 2018, through January 1, 2019, and conducted interviews.

During a review of emails from another investigation, we found two emails sent by an employee (employee) regarding the art walk. The employee sent emails to other staff on her floor advertising the event, including date, time, and sign-up information. She also wrote in the email, "no sales can take place during the Art Walk event."

We spoke with the employee, who said she proposed the art walk to her management as an employee appreciation event. During discussions, management asked her to get approval from the human resources department, which subsequently approved the event with the understanding that no sales were to be made during state time. She said she sent invitations to leadership, including the subject, but was not aware if they approved the event because she was asked to receive approval only from human resources. The employee said if any leadership would have approved the event it would have been the Deputy Director over her unit.

During an interview with the Deputy Director, she said she approved the event. She said employees displayed their arts and crafts in their cubicle areas, which allowed other staff to walk around and view the art throughout the day.

When we spoke with the subject, he said he attended the event and sent an email to the staff afterwards congratulating them on their hard work and talent. He said that was the extent of his involvement in the art walk.

Therefore, we found no reasonable cause to believe the subject committed an improper governmental action.

### 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 42.52.020 - Activities incompatible with public duties.**

No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's official duties.

### **RCW 42.52.070 - Special privileges.**

Except as required to perform duties within the scope of employment, no state officer or state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons.

### **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.