



Office of the Washington State Auditor
Pat McCarthy

Whistleblower Investigation Report

Department of Children, Youth, and Families

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July 8, 2019

Ross Hunter
Department of Children, Youth, and Families

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 19-013 at the Department of Children, Youth, and Families.

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 at (360) 725-5363.

Sincerely,

Pat McCarthy
State Auditor
Olympia, WA

cc: Governor Jay Inslee
Marcos Rodriguez, Human Resources Director
Kate Reynolds, Executive Director, Executive Ethics Board
Jacque Hawkins-Jones, Investigator

WHISTLEBLOWER INVESTIGATION REPORT

Assertion and Results

Our Office received a complaint asserting a Department of Children, Youth and Families (Department) employee did not submit leave for all of her absences from work.

Because of the lack of evidence available for review, we were unable to determine whether the subject failed to submit leave for her absences from work.

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

Background

On July 6, 2017, the Governor signed House Bill 1661 into law creating the Department. The agency oversees services previously offered by the Department of Social and Health Services and the Department of Early Learning, such as child protective services, adoption support, and early childhood education programs.

On July 1, 2018, the Department officially opened to the public.

Our investigative period is between November 1, 2017, and November 30, 2018. The subject worked at two agencies during this time period. We worked with staff at both agencies to ensure we retrieved data from each.

About the Investigation

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.

In addition to the hard drive, we requested the subject's timesheets, leave reports, emails and remote log-in data for the past year. This combined information is sufficient to determine whether an employee is working. When one of these elements is missing, we cannot make such a determination.

Due to the subject's transition to the Department when it was created, we did not receive all of the data for our investigative period. The Department did not have a records retention policy in place for the virtual sign-in logs and deleted the subject's remote log-in data after the standard 30 days.

Because the computer records are stored according to the settings of the individual computer, the amount and quality of data available vary. In this instance, the computer's normal processes had overwritten some of the event log records from the past year.

Leave

Regarding her work schedule, the subject said she had verbal, email, text and Skype conversations with her supervisor throughout the day and if her schedule changed for any reason, she kept her supervisor up-to-date.

We spoke with the subject's supervisor, who said she did not have any concerns regarding the subject's work time. She said the subject always finished her work duties on time. She said the subject regularly kept in touch with her regarding her whereabouts and turned in any corresponding leave.

We found the subject did send emails to her supervisor and co-workers regarding a change in her schedule.

Even though we received an entire year of emails 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 would have been sufficient to draw a conclusion. Due to the lack of available data, we were unable to determine whether an improper governmental action occurred.

Personal use

During our review of the subject's Internet history, we found a total of 300 minutes of personal browsing and four online purchases over the entire investigative period. The personal browsing was conducted over 15 non-consecutive days.

We found the subject's personal browsing sessions were, on average, four minutes in length. The longest instance of continuous personal browsing was 27 minutes.

During an interview, the subject said she did use her state computer infrequently for non-work-related purposes but said she never misused any state resources.

A state ethics rule (WAC 292-110-010(3)(a)) permits de minimis personal use of state resources as long as the use meets certain criteria, including that it is brief and infrequent. We found the subject's use of state resources for non-work-related purposes to be de minimis.

Therefore, we found no reasonable cause to believe 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) 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.