



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

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

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November 7, 2019

Cheryl Strange, Secretary  
Department of Social and Health Services

**Report on Whistleblower Investigation**

Attached is the official report on Whistleblower Case No. 19-014 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 results 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  
Andrew Colvin, Discovery & Ethics Administrator  
Kate Reynolds, Executive Director, Executive Ethics Board  
Cheri Elliott, Investigator

# WHISTLEBLOWER INVESTIGATION REPORT

## Assertion and Results

Our Office received a complaint asserting an employee (subject) at the Department of Social and Health Services (Department) was arriving late to work every day and not submitting leave.

We found reasonable cause to believe an improper governmental action occurred.

## About the Investigation

We obtained a copy of the subject's hard drive, email folders, leave submittals, and door entry records. Because the subject works in a call center, we also obtained a copy of the call logs showing the times her call center telephone was turned on and off. Our forensic team extracted an event log from the hard drive that detailed the time the subject logged on and off her computer. Using the event log data, call center data and door entry data, and based on the earliest time in the morning and latest time in the evening, we approximated how many hours the subject was at work each day. Because a computer overwrites data, as does the door entry system, we could review only 28 weeks for which we had all the data.

We provided the data to the subject for review. The subject said that she would sometimes work through her lunch and after hours to make up time she missed. We credited her with the time she said she worked through her lunches. She said at times she would include her breaks in her time away from the office and start her leave 15 minutes after she left the office. For example, if she had a 3 p.m. appointment, she would take her break at 2:45 and submit a leave slip from 3 to 5 p.m. This practice is allowable for this employee, who is not a union member and therefore is not subject to certain collective bargaining agreements that forbid it. Therefore, we did not count these 15-minute increments as missing leave. The subject said she did not intentionally fail to submit leave, she just forgot to submit it.

The subject said that she sometimes worked late to make up her time. In addition to responding to clients by phone, the subject also responds to client emails. Our review of the call center log did not show any calls that concluded after 5 p.m. In our review of her emails we found only one email sent after hours at 5:06 p.m. We found no evidence to substantiate that she worked past her scheduled hours.

The subject's supervisor said she was surprised that someone had complained that the subject arrived late to work every day. She said she had heard "little bits" about the situation from another employee, but had advised that person not to "police" the subject because that was the supervisor's job. She said that she and the subject kept track of the subject's time away from the office and her leave. The supervisor explained that when she received notification of an absence by telephone she made notes either handwritten or typed. She also saved email notifications of absences. At the end of the pay period or when pushing the subject's leave, she compared the notes and emails to the leave reports to ensure leave had been submitted for all of the absences.

Based on the data, we found that during the 28 weeks reviewed the subject:

- Was late to work every day, but one
- Failed to work 40 hours during any of the 28 weeks
- Failed to submit sufficient leave to cover 40 hours each week, with the exception of when she was on leave for an entire week
- Failed to submit 118.9 hours of leave

Therefore, 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) report on Whistleblower Case Number 19-014. The Department of Social and Health Services (DSHS) appreciates the assistance of the SAO by providing the Department with important facts from its investigation.*

*In accordance with agency policy, the Department will afford the employee an opportunity to respond to the Auditor's report. Based on the outcome of that process, the Department will take appropriate disciplinary action, which may include the employee's termination from employment. The Department will notify the State Auditor of the outcome of its review and resulting actions.*

### **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.