



Office of the Washington State Auditor  
Pat McCarthy

# Whistleblower Investigation Report

## Department of Corrections

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

November 17, 2022

Cheryl Strange, Secretary  
Department of Corrections

**Report on Whistleblower Investigation**

Attached is the official report on Whistleblower Case No. 22-007 at the Department of Corrections.

The State Auditor's Office received an assertion of improper governmental activity at the Agency. 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 (564) 999-0800. Otherwise, please contact Assistant Director for State Audit and Special Investigations Jim Brownell at (564) 999-0782.

Sincerely,

A handwritten signature in black ink that reads "Pat McCarthy".

Pat McCarthy, State Auditor

Olympia, WA

cc: Governor Jay Inslee

Michelle Walker, Audit Director/Ethics Administrator

Kate Reynolds, Executive Director, Executive Ethics Board

Erin Anderson, Special Investigations Program Manager

***Americans with Disabilities***

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# WHISTLEBLOWER INVESTIGATION REPORT

## Assertions and Results

Our Office received a whistleblower complaint asserting two Dental Assistants (Subjects 1 and 2) and a Dental Hygienist 2 (Subject 3) were not working a full 40 hours per week, were arriving late to work, and not submitting leave when they were not working. Additionally, the complaint asserted the subjects also watched online streaming services during their shifts, and inappropriately used the Offender Management Network Information (OMNI) system to look up information about people that was irrelevant to their work.

We were unable to determine whether an improper governmental action occurred regarding the subjects' time worked. However, we found reasonable cause to believe an improper governmental action occurred with all three subjects related to their use of state computer equipment that was more than de minimis. We also found reasonable cause to believe an improper governmental action occurred with Subjects 1 and 2 relating to their inappropriate use of the OMNI system.

## Background

The Department consists of the Offices of the Secretary and Deputy Secretary, with five divisions led by assistant secretaries: Prisons, Community Corrections, Administrative Operations, Reentry & Correctional Industries, and Health Services. The Department has approximately 8,000 employees who work in a variety of specialties and programs to administer a comprehensive system of corrections for people convicted of breaking the law, supervising more than 13,000 people housed in 12 prisons and 12 work-release facilities around the state. In addition, the Department supervises more than 12,600 people living in the community.

The subjects work within Health Services at the Washington State Penitentiary (Penitentiary), a men's prison in Walla Walla. The facility houses approximately 1,900 incarcerated people, and 2,189 employees work there. Health Services provides care to those incarcerated, including medical, mental health, dental, and pharmacy services.

## About the Investigation

### Time and attendance

The complaint asserted the subjects were not working a full 40 hours per week, were showing up late to work every day, or not showing up at all. To determine whether the subjects failed to submit leave for time when they did not work, we reviewed the following for the period of January 1, 2021, through December 31, 2021:

- Leave usage reports
- Activity reports from KeyWatcher, an electronic key management system that tracks key custody and time in and time out.

Other information or documents that may have verified employee attendance were no longer available during our investigation.

KeyWatcher reports are imprecise tools when it comes to substantiating shift work, since the system is not designed specifically for that purpose. However, using those reports and the leave usage reports, we identified several days where all three subjects might have been absent, but did not take any leave. The subjects then provided documentation, including screenshots from in-house leave forms and the state's online leave portal and timesheet systems, to support that they took leave on most of those days. Finally, we could not determine how Department management reviewed and approved the subjects' leave during the period in question because their former supervisor is no longer employed with the Department.

In conclusion, we are unable to determine whether an improper governmental action occurred because the Penitentiary does not adequately track employees' time worked, and due to inconsistencies between KeyWatcher data, leave data, and time cards.

### **State computer and OMNI use**

The complaint also asserted the subjects used online streaming services during their shifts, and inappropriately accessed the OMNI system to look up information about people that was irrelevant to their work.

The OMNI system tracks all aspects of an incarcerated person's record with the justice system, including sentencing information from the state courts, no-contact orders, outstanding warrants, and other background information. According to state IT security policies, state and federal privacy laws, and the Department's own policies, employees may only use state computer systems for official state business. The Department also has a "Use of State Resources Policy" that is communicated to employees in an annual training.

To determine whether the subjects misused state computer systems, we obtained the subjects' internet network activity. Based on consistency and duration of use, we determined that the subjects' personal use of all state computer equipment was more than de minimis. We found the subjects visited social media sites, streaming services, and news, travel and furniture websites. Subjects 1 and 2 said they did use online streaming services during the investigation period because their work time activities were limited due to the COVID-19 pandemic. Instead of seeing patients, they prepared daily COVID-19 communications, and otherwise had little work to do during this time. Subject 3 neither agreed or disagreed that she used her state computer for personal purposes.

We also reviewed a list of names the subjects searched within the OMNI system. The subjects are allowed to use the OMNI system for scheduling, reviewing medical history, or other information related to dental care that is relevant to the appointment. However, the names the subjects searched in the system were not patients. Subjects 1 and 2 said that they would look up names of people they saw on the news out of curiosity. We determined Subject 3 did not use the OMNI system for personal use.

In conclusion, we found reasonable cause to believe an improper governmental action occurred for all subjects related to their personal use of state computers that was more than de minimis. We also found reasonable cause to believe an improper governmental action occurred for Subjects 1 and 2 related to their inappropriate use of the OMNI system.

## **Recommendation**

We recommend the Department strengthen its internal controls over attendance tracking to ensure leave is accurately submitted, approved, and processed for hours that employees have not worked. Additionally, we encourage the Department communicate to staff applicable laws and policies regarding privacy and the allowable use of state resources like the OMNI system.

## **Agency's Plan of Resolution**

*Thank you for the opportunity to review and respond to the State Auditor's Office (SAO) draft report on Whistleblower Case No. 22-007. The Department of Corrections takes assertions seriously and appreciates the assistance of the SAO in developing important facts during the investigation.*

*The Department has initiated an administrative investigation into this matter. Upon completion of this investigation and 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 Auditor's report, as well as to any additional investigation results. The Department will notify the State Auditor of the outcome of this review and resulting actions.*

*The DOC appreciates the assistance of the SAO in this matter and takes all allegations of misconduct seriously.*

## **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 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.