



Office of the Washington State Auditor
Pat McCarthy

Whistleblower Investigation Report

Office of the Attorney General

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June 13, 2025

The Honorable Nick Brown
Attorney General

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 24-015 at the Office of the Attorney General.

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 Assistant Director of Communications Adam Wilson at (564) 999-0799. Otherwise, please contact Assistant Director for State Audit and Special Investigations Jim Brownell at (564) 999-0782.

Sincerely,

Pat McCarthy, State Auditor
Olympia, WA

cc: Governor Bob Ferguson
Kate Reynolds, Executive Director, Executive Ethics Board
Tia Bertrand, Chief Human Resources Officer
Erin Anderson, Special Investigations Program Manager

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WHISTLEBLOWER INVESTIGATION REPORT

Assertion(s) and Results

Our Office received a whistleblower complaint asserting a Senior Project Manager (subject), is performing city council member duties during their scheduled work hours for the agency. Additionally, the complaint asserted the subject has used the agency's shared leave program for an activity that is not permissible under state law.

We found no reasonable cause to believe the improper governmental action(s) occurred.

Background

The Office of the Attorney General is an executive branch agency created in the state Constitution to provide legal services to approximately 200 state agencies, boards, commissions, colleges and universities, as well as the Governor and Legislature, and is the largest public law office in the state. Its duties include: representing the State of Washington in all cases that involve the state's interest, advising the Governor, members of the Legislature and other state officers on legal issues, protecting the public by upholding and enforcing various laws related to the Consumer Protection Act, anti-competitive business practices, and utility matters, and investigating and prosecuting persons accused of crimes as requested by the Governor or a county prosecutor. The agency is made up of 27 legal divisions located in 12 different cities across the state, employing more than 500 attorneys and 600 other employees to serve its mission of providing excellent, independent, and ethical legal services to the State of Washington.

The subject is a Senior Project Manager within the Information Services Department.

About the Investigation

We received a whistleblower complaint asserting the Subject was using state resources for private gain by conducting city council business during her scheduled work hours at the agency (Issue 1). We also received a complaint asserting the subject used the state leave sharing program for activities that are not permissible under state law. (Issue 2)

Issue 1

To determine whether the subject was conducting city council business during her scheduled work hours at the agency, we obtained the following documentation for the period of June 2023 to June 2024:

- Position description
- Time and leave summaries
- Official work schedule
- Outlook calendar details
- Outside employment & conflict of interest forms

We also confirmed the subject was apart of the following outside committees and boards during the investigative period:

- City Council
- Jefferson County Board of Health (term ended December 2023)
- Fort Worden Lifelong Learning Center Public Development Authority (FWPDA) Finance and Audit Committee
- Behavioral Health Advisory Committee (1 meeting attended)
- Salish Rescue (Non-Profit)
- Saltfire Theater (Non-Profit)

We evaluated the publicly available meeting minutes of the boards and committees mentioned above and compared them to the subject's time, leave, and calendar. We noted City Council meetings are routinely called to order at 6:00 PM, which is outside of the subject's documented work hours. Therefore, those meetings were not included as part of our analysis. The non-profits were also not evaluated as part of our analysis, as those meetings were called to order on Saturday and Sundays, occurring quarterly.

We noted the FWPDA Finance and Audit Committee meetings took place on the third Tuesday or Wednesday of each month from 10:00 to 11:00 AM. The subject attended these meetings regularly throughout our investigation period. The Jefferson County Board of Health meetings occurred the third Thursday of each month from 2:30 – 4:30 PM. The subject stepped away from this commitment at the end of December 2023. According to agency records, the subject's lunch period was scheduled every other Thursday from 2:30 – 4:30 PM, to be able to attend this meeting without conflict. The subject also attended one meeting for the Behavior Health Advisory Committee, which occurred on March 12, 2024, from 2:30 PM- 3:30 PM. When compared to the subject's outlook calendar, we did note that these times were regularly marked as busy.

The subject's position allows for a flexible working schedule. This was confirmed in an interview with the subject's direct supervisor, who said the subject flexes her time often to avoid conflict with her outside commitments. Flex time is not formally tracked; they just request the subject's

calendar is up to date on their availability. The supervisor also said there have been several conversations between him and the subject on how to manage these outside commitments apart from their responsibilities at the Attorney General's Office, including a conversation between the subject and the Executive Director of the Executive Ethics Board.

In an interview with the subject, she confirmed she flexes her time as needed and does so often. She also said flex time is not formally tracked, and the level of notification required is that her calendar details when she is unavailable. The subject said she regularly works after hours and weekends to make up missed time for any outside meetings. Although weekends were not analyzed as part of our analysis, we observed timesheet entries showing the subject regularly logged hours on weekends.

Although we noted outside meetings took place during the subject's working hours, the subject is authorized by the agency to flex her schedule as needed. The subject's timesheets do not note the start and end time of each day, just total hours per workday. We noted the subject works 40 hours per week or more and logged time on weekends. Based on these facts, we did not find reasonable cause to believe the subject used state resources for private gain by conducting city council business during her scheduled work hours at the agency.

Issue 2

The state leave sharing program permits state employees to donate their own accrued leave to other state employees who are experiencing a qualifying leave reason. To be eligible to participate in the program, a state employee needs to have experienced a qualifying leave reason, have less than 40 hours of sick leave and vacation leave accrued, actively accruing additional leave, and have abided by all agency policies regarding leave in the past.

To determine whether the subject used the state leave sharing program for activities that are not permissible under state law, we obtained documentation from the agency and met with HR to discuss the approval process. We found documentation showing the subject had a qualifying leave reason as defined in RCW 41.04.665. We noted the subject submitted all verification requirements for their use of shared leave and communicated monthly in a detailed manner to HR what the shared leave was being used for.

The subject's shared leave events align with their qualifying leave reason under RCW 41.04.665, and the agency approved the use of shared leave. Therefore, we found no reasonable cause to believe the subject used the leave sharing program for activities that are not permissible under state law.

State Auditor's Office Concluding Remarks

We thank agency 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.

RCW 41.04.665 Leave sharing program—When employee may receive leave—When employee may transfer accrued leave—Transfer of leave between employees of different agencies—Return of unused leave—Rules:(1) An agency head may permit an employee to receive leave under this section if:

- (a)(i) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;
- (ii) The employee has been called to service in the uniformed services;
- (iii) The employee is a current member of the uniformed services or is a veteran as defined under RCW 41.04.005, and is attending medical appointments or treatments for a service connected injury or disability;
- (iv) The employee is a spouse of a current member of the uniformed services or a veteran as defined under RCW 41.04.005, who is attending medical appointments or treatments for a service connected injury or disability and requires assistance while attending appointment or treatment;
- (v) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has needed skills to assist in responding to the emergency or its aftermath and volunteers his or her services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services;
- (vi) The employee is a victim of domestic violence, sexual assault, or stalking;
- (vii) The employee needs the time for parental leave; or
- (viii) The employee is sick or temporarily disabled because of pregnancy disability;