INVESTIGATION OF MISUSE OF COUNTY TIME

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August 8, 2013

Charles Miller, Manager
Records & Information Management

The Division of Inspector General's Public Integrity Unit received allegations of Fraud, Waste, and Abuse. We have completed an investigation and concluded on the following allegations:

1. A Records & Information Management Department employee is misusing County time and violating Clerk's policies by working on a private business during County time. **Substantiated**

2. There is discrimination and unfair practices (regarding work hours, lunch breaks, flex time, and micro-managing) in the Records & Information Management Department. **Unsubstantiated**

3. A Records & Information Management Department employee is misusing County funds by speaking at the Florida Records Management Association and being paid by the County and not required to use annual leave. **Unfounded**

To determine whether the allegations were substantiated, we reviewed policies, procedures, and appropriate records. We also interviewed staff and other parties, as needed. Our investigation was performed according to the **Principles and Standards for Offices of Inspector General** and the **Florida Inspectors General Standards Manual** from The Commission for Florida Law Enforcement Accreditation.

The recommendations presented in this report may not be all-inclusive of areas where improvement may be needed. We believe that implementation of the recommendations will address the issues.

We appreciate the full cooperation and assistance of Records & Information Management staff during our investigation. If you have any questions, please do not hesitate to contact me at 464-8371.

Respectfully Submitted,

Hector Collazo, Jr., Director
Division of Inspector General

cc: Ken Burke, CPA, Clerk of the Circuit Court & Comptroller
    Myriam Irizarry, Chief Deputy Director, Court & Operational Services Division
    Jeff Gates, Director, Court & Operational Services Division
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INTRODUCTION

Synopsis

The Division of Inspector General investigated the allegation that a Records & Information Management Department employee is misusing County time and violating Employee Personnel Rules and Clerk and Comptroller (Clerk) Office-Wide Policies and Procedures by working on a private business using Pinellas County equipment during County work time. We have determined that the allegation is substantiated, as there was sufficient evidence to justify a reasonable conclusion that the allegation is true.

Background

The Public Records Laws of the State of Florida require all public agencies and officials to establish and maintain a records management program. This means that all public records must be retained and protected until they have satisfied the retention requirements established by the Florida Department of State, State Library and Archives of Florida, and by the State of Florida Rules of Judicial Administration.

The Pinellas County Clerk created the Records Management Services department in October 1977. The goal of the department was to create a centralized, environmentally controlled facility for microfilming and records retention purposes. In October 2006, Records Management Services merged with the Board of County Commissioners (BCC) Records Management Department, creating one Records Management Department administered by the Clerk.

The departments were further consolidated in 2009, creating the Records & Information Management Department. Records & Information Management consists of three offices. The BCC Office maintains records for the BCC departments. The Court Records Office maintains two locations. Circuit Criminal, County Criminal, Juvenile, and Traffic case files are housed at
the Mid-County Record Retention Center. Circuit Civil, County Civil, Family Division, Small Claims, and Probate Court case files are housed at the Civil/Probate Record Retention Center.

The Records & Information Management Court Records Department is a multi-service department, specializing in the storage, retention, preservation, and destruction of eligible records for the Clerk. The Civil/Probate and Mid-County Records Retention Centers currently house and manage over one million court files for the Clerk’s Office. In addition, a variety of cost-effective services are offered to Clerk offices, which include storage of active and inactive court files, storage of inactive administrative files, microfilming, retrieval and delivery of court and administrative files, inventory and file-tracking services, training, file classification and retention schedule assistance, disposition services for court and administrative files which have satisfied retention requirements.

On May 2, 2013, the Division of Inspector General received an anonymous complaint on the County’s Fraud, Waste and Abuse Hotline that alleged an employee at the BCC Office of the Clerk’s Records & Information Management Department was running a private business during County time.

On July 1, 2013, the Division of Inspector General received two anonymous complaint letters alleging the following:

1. An employee in a “blue collar” department is misusing County time and violating Clerk’s policies by working on a private business during County time. (The investigation determined the department in question is the BCC Office of Records & Information Management.)

2. There is discrimination and unfair practices (regarding work hours, lunch breaks, flex time and micro-managing) in a “blue-collar” County department. (The investigation determined the department in question is the BCC Office of Records & Information Management.)

3. A Records & Information Management Department employee is misusing County funds by speaking at the Florida Records Management Association and being paid by the County and not required to use annual leave.

The Division of Inspector General investigation of the allegations concluded the following:

1. **Substantiated.** A BCC Office employee of the Records & Information Management Department is misusing County time and violating Clerk Office-Wide Policies and Procedures by working on a private business using Pinellas County equipment during County work time.
2. **Unsubstantiated.** There is a morale and communication issue within the BCC Office of the Records & Information Management Department; however, we found no evidence that County policies were violated. These issues were discussed with the Department Manager.

3. **Unfounded.** It is not against County policies to spend County work time on a job related association, such as a BCC Office employee of the Records & Information Management Department speaking at the Florida Records Management Association and being paid by the County and not required to use annual leave.
### Action Plan

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<td><strong>A Records &amp; Information Management Department Employee Is Misusing County Time And Violating County Policies.</strong></td>
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<td>Management consider disciplinary action as appropriate per the Clerk's Office-Wide Policies and Procedures.</td>
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Clerk of the Circuit Court and Comptroller
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INVESTIGATIVE FINDINGS

1. A Records & Information Management Department Employee Is Misusing County Time And Violating County Policies.

An investigation conducted by the Division of Inspector General based on anonymous complaints received confirmed that an employee (Respondent) of the BCC Office in the Records & Information Management Department is working on a private business using Pinellas County equipment during County work time.

We obtained general information about the Respondent including affiliations with businesses by:

- Reviewing LexisNexis and Sunbiz.org reports.
- Reviewing the Respondent’s County personnel file.
- Performing general internet searches.

We obtained direct evidence that supports the allegation that the Respondent is misusing County time and violating Pinellas County Employee Personnel Rules and Clerk Office-Wide Policies and Procedures as follows:

- PaloAlto Web Browsing Activity Reports show frequent navigation throughout the County workday to private business related websites over the past five months.
- The Respondent’s County workstation hard drive contains files related to the private business.
- The Respondent’s County workstation also shows files related to the private business frequently accessed via removable media (i.e. USB device).
- Telephone records show phone calls made and received on the Respondent’s County telephone to numbers related to the private business.
- Emails from the Respondent during County work time regarding the private business.

We interviewed Records and Information Management Department staff, including the Respondent, and obtained further evidence to support the allegation. The interviews revealed the following:

- Staff has witnessed the Respondent using a personal electronic device during County work time.
- Staff has witnessed the Respondent taking personal cell phone calls dealing with the private business during County work time.
- Staff has been solicited to become a customer of the Respondent during County work time, of which two employees stated they did become a customer of the Respondent.
• The Respondent brings a personal electronic device to work and uses it for County and non-County business during work hours.
• The Respondent uses County equipment (desktop and laptop computers) for private business during County work time.
• The Respondent takes telephone calls related to the private business on a personal cell phone during County work time.
• The Respondent has two current staff members as past customers of the private business.

Clerk Office-Wide Policies and Procedures: Chapter 9 Technology Policy, states:

“1. Information Technology assets are provided for the furtherance of County business. Some limited personal use of equipment is acceptable, provided that such use is not excessive or inappropriate, and does not violate the provisions of the Limited Personal Use of County Office Equipment policy. Personal limited use is allowable during employee’s non-work time.

5. No County system may be used to store or access information or communication which is... For private enterprise or personal gain...”

Clerk Office-Wide Policies and Procedures: Chapter 10 Limited Personal Use of County Office Equipment states:

“Employees are expected to conduct themselves professionally in the workplace and to refrain from using government office equipment for activities that are prohibited by Clerk’s Policies and Procedures and Personnel Rules. Downloading sexually explicit materials (images or documents), playing games, sending non-County business mass mailings, and running a private business are some of the examples of activities that are prohibited.”

“Unauthorized or improper use of County Office equipment could result in loss of use or limitations on use of equipment, disciplinary or adverse actions, criminal penalties and/or employees being held financially liable for the cost of improper use.”

The Respondent completed a written voluntary statement admitting to using County equipment for a private business during County time, but states that use was during lunch and breaks. However, direct evidence obtained as detailed above shows that the Respondent used County equipment for a private business during all times of the County workday.

The Respondent's actions constitute a violation of the Clerk’s Office-Wide Policies and Procedures. The Respondent stated that they were not aware they were violating the Clerk's policies.

We recommend management consider disciplinary action as appropriate per the Clerk's Office-Wide Policies and Procedures.
Management Response:

Concur. Management agrees with the recommendation.
DIVISION OF INSPECTOR GENERAL
KEN BURKE, CPA
CLERK OF THE CIRCUIT COURT
& COMPTROLLER
PINELLAS COUNTY, FLORIDA

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