

OFFICE OF INSPECTOR GENERAL CITY OF JACKSONVILLE



MANAGEMENT REVIEW 2018-0006

REVIEW OF CITY COUNCIL POLICIES REGARDING
TELEPHONIC BUSINESS COMMUNICATIONS

LISA A. GREEN
INSPECTOR GENERAL

JANUARY 10, 2020

DATE ISSUED

“Enhancing Public Trust in Government Through Independent and Responsible Oversight”

EXECUTIVE SUMMARY

The Office of Inspector General (OIG) initiated this Management Review¹ in February of 2019, subsequent to the conclusion of the Office of the State Attorney for the Fourth Judicial Circuit (SAO) criminal investigation into allegations of potential violations of §286.011, Florida Statute (also known as Florida’s “*Sunshine Law*”), related to telephonic communications between City of Jacksonville (COJ) Council Members (CM) outside of the “*Sunshine*.”

The purpose of this Management Review was to review City Council processes and procedures related to the usage of personal cellular telephones for official City of Jacksonville business, including the retention of official business communications.

The OIG concluded the City of Jacksonville does not issue cellphones to CMs; rather CMs use personal cellphones to conduct City of Jacksonville business. The OIG review disclosed that CMs received training from the Office of Ethics, Compliance and Oversight and the Office of General Counsel, which clearly and unambiguously detailed the restrictions of using personal cellphones for official COJ business, in accordance with the “*Sunshine Law*” and public records laws. However, outside of these training materials, the OIG did not find any City Council rules, policies, or procedures that explicitly detailed these same guidelines.

The OIG did find governing directives regarding CMs receiving a monetary allowance for using their personal cellphones for official business and governing directives regarding prohibited conduct and retention of electronic communications (i.e. text messages) narrowly focused on text messaging between CMs and certain individuals, such as lobbyists and union representatives, during City Council or Committee meetings.

The Management Review disclosed the City Council has no existing rules, policies, or procedures that provide guidance to CMs to ensure compliance with both the State of Florida “*Sunshine Law*” and public records laws when using personal cellphones for City of Jacksonville business. Further, there is no existing procedure to explain how CMs should retain texts related to City of Jacksonville business when CMs are using personal cellphones, regardless of whether or not CMs receive a monetary allowance.

As a result of the Management Review, the City Council President has directed the City Council Director to establish a policy for retention of electronic communications related to official City of Jacksonville business while using personal devices.

¹ A Management Review is an investigation into the operations of a particular program, process, or procedure.

MANAGEMENT REVIEW

In February of 2019, after the Office of the State Attorney for the Fourth Judicial Circuit (SAO) declined to pursue any criminal charges regarding a criminal investigation into allegations of potential violations of §286.011, Florida Statute (also known as Florida's "Sunshine Law"), related to telephonic communications between City of Jacksonville (COJ) Council Members (CM) outside of the "Sunshine," the Office of Inspector General (OIG) initiated this Management Review of existing processes and procedures related to the usage of personal cellular telephones by CMs for COJ business.

ISSUES UNDER REVIEW

This Management Review focused on two issues, in particular: (1) existing governing directives regarding usage of personal cellphones by CMs for City of Jacksonville business and (2) training provided to CMs regarding the use of personal cellphones for City of Jacksonville business.

GOVERNING DIRECTIVES

Constitution of the State of Florida

Article I, Declaration of Rights

- *Article I, Section 24(b), Access to public records and meetings*

Florida Statutes

Chapter 112, Public Officers and Employees: General Provisions

- *§112.3142(2)(b), Ethics training for specified constitutional officers and elected municipal officers*

Chapter 119, Public Records

- *§119.011, Definitions*
- *§119.07, Inspection and copying of records; photographing public records; fees; exemptions*

Chapter 286, Public Business: Miscellaneous Provisions

- *§286.0105, Notices of meetings and hearings must advise that a record is required to appeal*
- *§286.011(1), (2) and (3) (a) and (b), Public meetings and records; public inspection; criminal and civil penalties*

City of Jacksonville Ordinance Code (Ordinance Code)**Chapter 10, Organization of the Council**

- §10.105(c) Postage and communication expenses of Council members

Chapter 15, Jacksonville Sunshine Law Compliance Act

- §15.103 Notice of Council Public Meetings; posting and timing
- §15.104 Public Meetings location
- §15.105 Public Meeting; commencement and adjournment
- §15.108 Annual continuing education and training
- §15.109 Recommendations for improved compliance

Rules of the Council of the City of Jacksonville (effective February of 2019)**Chapter 1, Organization of the Council, Part 3 Members of Council**

- Rule 1.301 Council Members Subject to Standards of Conduct

Chapter 5, Construction, Suspension and Amendment of Rules

- Rule 5.101 Parliamentary Authority

City Council Policies and Procedures

- *The Office of the City Council Communications Allowance Policy* (effective August of 2014);
- *The Council President's Executive Policy on Electronic Text Communications during Meetings* (issued March 1, 2016 and revised November 13, 2017 and July 23, 2018); and
- *Resolution 2016-371*

MANAGEMENT REVIEW SUMMARY

RECORDS REVIEW

The OIG reviewed various records, including applicable state statutes, municipal ordinances, City Council policies, and procedures regarding personal cellular telephone use by CMs for official COJ business.

Based on the review, the OIG found two governing directives, §10.105(c), *Ordinance Code*, and the *Office of the City Council Communications Allowance Policy*. However, these governing directives dealt with the monetary allowance provided to each CM, rather than guidance related to prohibitions of communicating outside of the “*Sunshine*.”

The only governing directives that addressed the types of conduct prohibited and the retention of records when CMs used cellphones for official COJ business were *Resolution 2016-371* and the *Council President's Executive Policy on Electronic Text Communications during Meetings*. However, these governing directives only addressed CMs communication via text message with certain individuals, such as lobbyists and union representatives, during City Council or Committee meetings.

COJ Ordinance Code

Chapter 10, Organization of the Council

§10.105(c), *Ordinance Code, Postage and communication expenses of Council members* states, in part:

... Effective July 1, 2005, and notwithstanding anything in Chapter 10 to the contrary, City cellular phones shall not be issued to any elected or appointed official or employee in the legislative branch except as provided herein. Based on an annual request for an emergency mobile communications allowance, City Council Members and appointed officials or employees of the legislative branch as authorized by their Director may receive a monthly allowance not to exceed \$100 for cellular phone service and converged data device service. The use shall be requested and verified. The Personnel Committee is authorized to promulgate the policy and rules for this subsection.²

The Office of the City Council Communications Allowance Policy

The *Office of the City Council Communications Allowance Policy* states, in part:

Amount and Terms of Payment

Council Members and authorized members of staff who maintain cellular telephone service may receive a monthly allowance for a calling plan and/or data plan, not to exceed \$100.00 per month.

Verification

The City reserves the right to verify service(s) at any time to ensure allowances are not overpaid or paid for terminated/cancelled service(s). In order to do so, it is required that the participants make the Director/Council Secretary immediately aware of any changes to service(s) that would prevent this verification, i.e. changing the telephone number, cancelling/terminating service, changing providers, etc.

² The OIG reviewed the available Personnel Committee Meeting Minutes posted on the City Council website. As of June 6, 2019, there were no references made in any of the Personnel Committee Meeting Minutes regarding §10.105(c), *Ordinance Code*.

Resolution 2016-371

Resolution 2016-371 states, in part:

... The City Council requests that the Council President annually, or more frequently as necessary, review and revise the Council President's Executive Policy on Electronic Communications during Meetings and publish any changes to the full council.

The Council President's Executive Policy on Electronic Communications during Meetings

The *Council President's Executive Policy on Electronic Communications during Meetings* (March 1, 2016 and July 23, 2018 versions³) stated, in part:

- 1. Sending or receiving text messages during meetings:*** *Sending or receiving text messages with a registered lobbyist, union member or union representative during a Committee or City Council meeting related to official public business on the agenda is discouraged.*
- 2. Replying to text messages during meetings:*** *During a Committee or City Council meeting, Council Members shall not reply to any text message from a registered lobbyist, union member or union representative related to official public business on the agenda.*
- 3. Disclosure of text messages:*** *In the event a Council Member receives a text message during a Committee or City Council meeting from a registered lobbyist, union member or union representative related to official public business on the agenda, the Council Member must disclose the receipt of such communication by filing it with the Legislative Services Division within 48 hours of receipt. The communication will be placed in the permanent bill file.*

The *Council President's Executive Policy on Electronic Communications during Meetings* (November 13, 2017 version) stated, in part:

- 1. Sending or receiving text messages during meetings:*** *Sending or receiving text messages with a registered lobbyist, union member or union representative, or a member of the administration of the City of Jacksonville during any Committee or any City Council meeting related to official public business on the agenda is discouraged.*

³ In the November 13, 2017 *Council President's Executive Policy on Electronic Communications during Meetings*, the City Council President modified the language of the March 1, 2016 version to include members of the Administration in addition to "a registered lobbyist, union member or union representative." In the July 23, 2018 *Council President's Executive Policy on Electronic Communications during Meetings*, the new City Council President removed members of the Administration from the document and returned to the 2016 version.

*2. **Replying to text messages during meetings:** During a Committee or City Council meeting, Council Members shall not reply to any text message from a registered lobbyist, union member or union representative, or a member of the administration of the City of Jacksonville related to official public business on the agenda.*

*3. **Disclosure of text messages:** In the event a Council Member receives a text message during any Committee or any City Council meeting from a registered lobbyist, union member or union representative, or a member of the administration of the City of Jacksonville related to official public business on the agenda, the Council Member must disclose the receipt of such communication by filing it with the Legislative Services Division within 48 hours of receipt. The communications will be placed in the permanent bill file.*

The other relevant governing directives reviewed by the OIG, as listed below, pertained to the “Sunshine Law” and/or other related matters.

Article I, Constitution of the State of Florida

§24(b), *Article I, Constitution of the State of Florida* states the following, in part:

All meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed to the public and meetings of the legislature shall be open and noticed as provided in Article III, Section 4(e), except with respect to meetings exempted pursuant to this section or specifically closed by this Constitution.

Florida Statutes

§112.3142(2)(b), *Ethics training for specified constitutional officers and elected municipal officers* states the following, in part:

... All elected municipal officers must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

§286.011(1), (2) and (3) (a) and (b), *Public meetings and records; public inspection; criminal and civil penalties* states the following, in part:

(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, including meetings with or attended by any person elected to such board or commission, but who has not yet taken office, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

(2) The minutes of a meeting of any such board or commission of any such state agency or authority shall be promptly recorded, and such records shall be open to public inspection. The circuit courts of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.

(3)(a) Any public officer who violates any provision of this section is guilty of a noncriminal infraction, punishable by fine not exceeding \$500.

(b) Any person who is a member of a board or commission or of any state agency or authority of any county, municipal corporation, or political subdivision who knowingly violates the provisions of this section by attending a meeting not held in accordance with the provisions hereof is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

COJ Ordinance Code

Chapter 15, Jacksonville Sunshine Law Compliance Act

§15.105, *Public Meeting; commencement and adjournment* states, in part:

The business and conversations conducted during a noticed Council Public Meeting shall commence upon the chair's or Council Member's opening of the meeting, and shall conclude upon adjournment. The mere fact that a meeting has been noticed, does not authorize action or discussions prior to the opening of the meeting or following its adjournment.

§15.108, *Annual continuing education and training* states, in part:

(a) *Council Members and Executive Council Assistants shall receive, and the Office of the General Counsel, with the assistance of the City Ethics Director, the Director/Council Secretary and other supporting agencies, shall provide annual training on Government in the Sunshine, open meetings laws and ethics laws.*

(b) *The date, format, time, and duration of this training shall be determined by the Director/Council Secretary, Director of Ethics, and Office of General Counsel and shall be utilized to fulfill the requirements of F.S. § 112.3142.*

(c) *All Council Members and Executive Council Assistants shall be provided materials in electronic format.*

(d) *In addition to annual training, training on Government in the Sunshine, open meetings laws and ethics shall be provided upon special request. These presentations may be given at committee or Council meetings or at other times as may be directed by the Council President.*

§15.109, *Recommendations for improved compliance states, in part:*

The Director/Council Secretary, the City Ethics Director, and the Office of General Counsel, may make recommendations for improvements to this Chapter to the City Council.

Rules of the Council of the City of Jacksonville

Rule 1.301, *Council Members Subject to Standards of Conduct states, in part:*

... By personal example and by admonition to colleagues whose behavior may threaten the honor of the Council, each Council Member shall watchfully guard the responsibility of his/her office.

City Council Training Records

The OIG reviewed City Council training records to determine what information was provided to CMs regarding personal cellular telephone use by CMs for official COJ business, including “Sunshine Law” compliance training.⁴ A review of City Council training records revealed the following information, as noted below.

⁴ Pursuant to §15.107, *Ordinance Code*, the OIG is required to conduct a biannual “Sunshine Law” compliance audit regarding the Council, which includes confirmation that all CMs “received annual continuing education and training on the Sunshine Law.” Since the OIG began operations in 2014, the OIG has completed two “Sunshine Law” compliance audits, OIG Audit Report Numbers 2016-CR-0001 and 2018-CR-0001. Neither 2016-CR-0001 nor 2018-CR-0001 cited any issue with CMs’ completing the required annual “Sunshine Law” training.

Florida's Sunshine Law and the Council & Boards, June 3, 2015

According to the applicable attendance sheet and meeting minutes, the Office of Ethics, Compliance and Oversight (ECO) and the Office of General Counsel (OGC) conducted training on June 3, 2015. All CMs attended the training. A Microsoft PowerPoint (PowerPoint) presentation titled *Florida's Sunshine Law and the Council & Boards* was provided to the CMs. Included in this presentation were slides that defined a "Public Meeting" as a conversation between two or more CMs regarding "a matter that is likely or foreseeably to be considered." The presentation detailed the "Sunshine Law" requirements applicable to CMs.

2015 City Council Sunshine Training (Review), November of 2015

A PowerPoint presentation titled, "2015 City Council Sunshine Training (Review)" was provided to CMs with instructions from the ECO to review the presentation in its entirety by November 20, 2015, on their own time. One of the slides advised, "Do not call, text, or email other Council members on city related business; discussions must occur in an open noticed meeting." The presentation also contained slides explaining the requirements to retain business-related text messages, instructing, "unless your text is 'see you for lunch in 10,' if it concerns city business, save it! THIS IS EVEN IF IT IS ON YOUR PERSONAL CELL PHONE." All CMs completed a *Certificate of Completion* attesting to their review of this specific PowerPoint presentation.

Top 10 Ethics Trouble Areas, June 10, 2016

According to the applicable meeting minutes, training was provided by the OGC regarding public records and the "Sunshine Law" on June 10, 2016. According to the applicable attendance sheet and meeting minutes, all but three CMs attended training. One of the presentations provided to the CMs in attendance was titled, "Top 10 Ethics Trouble Areas." Included in this presentation was one slide, which noted, "You might be In Trouble if: You violated the Sunshine Law." Another slide included in this presentation noted, "You might be In Trouble if: You destroy public records (emails, text messages, even if on your own personal computer or phone)."

2017 City Council Sunshine and Ethics Training, November of 2017

A PowerPoint presentation titled, "2017 City Council Sunshine and Ethics Training," was provided to CMs with instructions from the ECO to review the presentation in its entirety by December 30, 2017, on their own time. The presentation contained slides with information similar to the above November of 2015 training, specifically, "Do not call, text, or email other Council members on city related business; discussions must occur in an open noticed meeting."

The November of 2017 training also included slides that detailed the requirements of the November 13, 2017, *Council President's Executive Policy on Electronic Communications during*

Meetings, as well as, a 2017 OGC memorandum⁵ which could be used to determine if a text message was “*official business*” and needed to be retained. One of the slides also advised it was best practice for CMs to refrain from using texting for COJ business, but to instead use their COJ e-mail accounts which are “*backed up.*” All CMs completed a *Certificate of Completion* attesting to their review of this specific PowerPoint presentation.

SAO and OGC “Sunshine Law” Presentation, June 11, 2018

According to the applicable attendance sheet and meeting minutes, all but two CMs attended the training on June 11, 2018. According to the applicable meeting minutes, a presenter from the SAO discussed the “*wide variety of circumstances and means of communication that have been defined as a ‘public meeting.’*”⁶

Another presenter from OGC distributed a 2015 OGC memorandum regarding public records law and the “*Sunshine Law.*”⁷ Of particular interest, this memorandum stated that the “*Sunshine Law*” required “*... boards to meet in public; boards may not take action on, or engage in private discussions of, board business via written correspondence, e-mails, text messages or other electronic communications ... Further, electronic communications which involve official public business are considered a public record and hence subject to the retention and disclosure requirements of Florida law.*”

Annually, all CMs had to certify on the State of Florida’s *Form 6 Full and Public Disclosure of Financial Interests* that they completed four hours of ethics training, as required by §112.3142, F.S. This form was then submitted to the Florida Commission on Ethics. The four hours of ethics training had to include sections dedicated to both the “*Sunshine Law*” and other public records laws. However, the OIG review of the 2015 through 2018 *Form 6 Full and Public Disclosure of Financial Interests* revealed that several CMs failed to certify they had completed their required annual training even when those CMs had in fact completed the required training for the year(s) in question.

⁵ The 2017 OGC memorandum specifically addressed the following questions: “*When is a text message ‘official business,’ and thus subject to disclosure under the Public Records Law, versus private and not subject to disclosure, and are ‘non-substantive,’ transitory texts still considered public records?*”

⁶ The video recording of the June 11, 2018, meeting revealed that the SAO presenter reviewed in a PowerPoint slide the types of interactions that would be considered a meeting, in accordance with requirements of the “*Sunshine Law.*” The slide noted that this included “*Emails, text messages, or any other electronic communications*” and “*Private telephone conversations.*” The SAO presenter elaborated that it was a violation of the “*Sunshine Law*” to conduct “*government business*” using e-mails, text messages, or other electronic communications. The SAO presenter also said, “*You’re not permitted to speak by phone about government business that’s reasonably foreseeable to come before you.*”

⁷ The OGC memorandum was written in response to “*the recent events that have engendered a discussion of the Sunshine Laws ...*” This comment was in reference to an incident that occurred in September of 2015 when several CMs were alleged to have communicated with one another through an intermediary regarding proposed legislation, a potential violation of the “*Sunshine Law*” and public records laws. In response to this incident, a private citizen and a private organization filed a lawsuit alleging violations of the “*Sunshine Law*” and public records laws. Several CMs agreed to settlements, which included prohibitions against violating the “*Sunshine Law*” and public records laws in the future.

Cellphone Allowances

During the course of the management review, the OIG discovered that some, but not all, CMs received allowances for their personal cellular telephones.⁸ The OIG learned that the City of Jacksonville does not issue cell phones to CMs; rather CMs are using personal cellphones to conduct City of Jacksonville business. Based on the records reviewed by the OIG, the total number of CMs receiving an allowance and the total allowance paid annually to all CMs are noted in the table below:

Fiscal Year (FY)	Number of CMs Receiving Allowance	Total Allowance Paid to CMs for Fiscal Year⁹
2016	7	\$7,920
2017	8	\$8,335
2018	8	\$8,335
2019	10	\$8,518

According to the records obtained by the OIG, each CM completed a *Communications Allowance Request* form in order to receive an allowance. The OIG reviewed the *Communications Allowance Request* forms for FY 2016 through 2019. Each CM was required to acknowledge the *Office of the City Council Communications Allowance Policy* and allow COJ to verify that their cellular phone service was active as part of receiving an allowance. This policy does not address prohibited conduct regarding personal cellular telephone use by CMs for official COJ business or the retention of texts relating to official COJ business.

Prior Actions Taken by City Council Regarding CM Usage of Cellphones

After the alleged incident in September of 2015 mentioned in footnote 7 (page 13), the then-Council President issued a memorandum on October 8, 2015, regarding CM usage of cellphones. In this memorandum, the then-Council President expressed his belief that “*it is a best practice for council members to turn off cell phones while seated at the dais.*”

Subsequently, legislation, filed as *Ordinance 2015-697*, was introduced on October 13, 2015. However, *Ordinance 2015-697* was later substituted and resubmitted on February 26, 2016, and was withdrawn on March 8, 2016.

This proposed legislation discouraged CMs from sending or receiving text messages with certain individuals, such as a lobbyist or a union representative, during any City Council or Committee meetings. Additionally, the proposed legislation prohibited CMs from replying to text messages from certain individuals, such as lobbyists or union representatives, during any City Council or Committee meetings. The proposed *Ordinance 2015-697* would have required CMs to disclose any text messages received from certain individuals, such as lobbyists or union representatives, if it pertained to a matter on the agenda prior to a vote on that specific matter.

⁸ Not all CMs request an allowance for their personal cellular telephones.

⁹ All figures are rounded to the nearest dollar.

However, on March 1, 2016, the then-Council President issued the *Council President's Executive Policy on Electronic Text Communications during Meetings* to CMs, which referenced similar language as proposed in *Ordinance 2015-697*.

On April 4, 2016, the then-Council President created a City Council Special Committee on Electronic Communications (Special Committee) to review the City Council's policy on electronic communications.

Of particular interest, during a meeting on May 4, 2016, per the Special Committee meeting minutes, one CM opined that the public records law training received by CMs needed to be reviewed and improved. Another CM "*recommended a positive rather than negative approach to ensuring council member compliance with the requirements of law – reaffirmation of the policies and everyone's desire to fully comply rather than new punitive measures.*"

According to the Special Committee meeting minutes, on May 4, 2016, the Special Committee voted to approve the following actions:

- 1) Recommend that City Council "*adopt a resolution requiring the Council President to annually evaluate and revise as necessary the President's executive policy on electronic communications during meetings.*" AND
- 2) Recommend that City Council "*not pursue issuance of City devices to all council members or the acquisition of data capture technology because it is not an effective, realistic and cost-efficient means of the resolving the issue. Personal responsibility is incumbent on each council member to resolve the issue.*"

Subsequently, *Resolution 2016-371* was introduced on May 24, 2016, and adopted on June 28, 2016. *Resolution 2016-371* required the Council President to annually review the *Council President's Executive Policy on Electronic Text Communications during Meetings* and make revisions as needed.

The *Council President's Executive Policy on Electronic Text Communications during Meetings* has been revised twice since it was initially issued on March 1, 2016. On November 13, 2017, the policy was expanded to include CMs exchanging text messages with members of the Administration during City Council or Committee meetings. It was revised again on July 23, 2018, to remove the references to members of the Administration.

SUMMARY

The review disclosed that the COJ does not issue cellphones to CMs; rather CMs use personal cellphones to conduct official COJ business.

In regards to existing governing directives regarding usage of personal cellphones by CMs for official City of Jacksonville business, the OIG determined there were two governing directives

that addressed a monthly monetary allowance provided to CMs who use their personal cellphones for COJ business.

There were also two separate governing directives that outlined prohibited conduct by CMs in communicating with certain individuals, such as lobbyists or union representatives, and also required the retention of any relevant texts. However, these two governing directives were very limited in scope and only applied to text messages sent or received by CMs during City Council or Committee meetings.

In regards to existing training provided to CMs regarding the use of personal cellphones for COJ business, the OIG found that CMs received training from the EOC and OGC that clearly and unambiguously detailed the restrictions of using personal cellphones for official COJ business, in accordance with the “*Sunshine Law*” and public records laws. However, outside of these training materials, the OIG did not find any City Council policies or procedures that explicitly detailed these same guidelines.

CONCLUSION

The OIG concluded that CMs are not issued City of Jacksonville cellphones; rather, CMs are using personal cellphones to conduct City of Jacksonville business. Additionally, the OIG concluded that City Council has no existing rules, policies, or procedures that provide guidance to ensure compliance with both the State of Florida “*Sunshine Law*” and public records laws when CMs are using personal cellphones for City of Jacksonville business. Further, there is no existing procedure to explain how CMs should retain texts related to City of Jacksonville business when CMs are using personal cellphones, regardless of whether or not CMs receive a monetary allowance.

RECOMMENDED CORRECTIVE ACTIONS

The OIG recommends the following corrective actions:

1. Develop guidance in the form of a rule, policy, and/or procedure to ensure compliance with both the State of Florida “*Sunshine Law*” and public records laws when CMs are using personal cellphones for City of Jacksonville business. Specifically, address what conduct is prohibited by CMs when using their personal cellphones for City of Jacksonville business. Include a procedure for the retention of all texts related to official business. Provide a copy to the OIG of any rule, policy, or procedure established subsequent to this recommendation.
2. Determine whether the City Council should establish a rule, policy, and/or procedure to address the City Council’s right to audit personal cell phone records of CMs who receive an allowance in accordance with §10.105(c), Ordinance Code, and the Office of the City Council Communications Allowance Policy. Provide a copy to the OIG of any rule, policy, or procedure established subsequent to this recommendation.

3. Provide training to CMs and Executive Council Assistants relating to any newly established rule, policy, or law. Provide verification of training to the OIG.

IDENTIFIED, QUESTIONED, AND AVOIDABLE COSTS

Not Applicable.

CITY COUNCIL COMMENTS AND CORRECTIVE ACTIONS

On September 16, 2019, the City of Jacksonville Council President was provided the opportunity to submit a written explanation or rebuttal to the findings in the draft Management Review due on or before October 7, 2019. On October 9, 2019, the OIG granted an extension to November 15, 2019. Due to pressing matters within the Consolidated Government, the response was delayed until after the New Year. On January 7, 2020, a written response was received from the Council President and is attached in its entirety to this report.

Based on the Management Review, the City Council President has directed the City Council Director to establish a policy for retention of electronic communications related to official City of Jacksonville business while using personal devices. The response did not address items 2 and 3 of the recommended corrective actions.

Attachment:

Management's Response, dated January 6, 2020

cc: IG Distribution 2018-0006

This investigation has been conducted in accordance with the ASSOCIATION OF INSPECTORS GENERAL Principles & Quality Standards for Investigations.



OFFICE OF THE CITY COUNCIL

**SCOTT WILSON
PRESIDENT
COUNCIL MEMBER DISTRICT 4
OFFICE (904) 630-1394
FAX (904) 630-2906**

**SUITE 425, CITY HALL
117 WEST DUVAL STREET
JACKSONVILLE, FLORIDA 32202
E-MAIL;SWILSON@COJ.NET**

January 6, 2020

MEMORANDUM

TO: Lisa Green, Office of Inspector General

FROM: The Honorable City Council President Scott Wilson
District 4

SUBJECT: Public Record Retention

Some public records such as text messages or social media messages are public record. I recognize the need to establish a policy for retention of these public records. I have attempted to schedule a personnel meeting where we can discuss and develop a plan. Our schedules have not permitted a meeting of the personnel committee. By copy of this memorandum I am directing our City Council Director, Cheryl L. Brown to work with our ITD Division and develop a plan for retaining messages that are public record and sent to personal devices. This plan will be presented to the personnel committee for final approval.