

From: Greg Cook

To: Reidj@sao7.org

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Bcc:

Subject: Formal Complaint on intentional deletion of Public Records

Date: Mon, 28 Mar 2022 12:36:15 -0400

Good morning Mr. Reid.

As the SAO for the 7th Judicial Circuit, it is my understanding that it is required for your office to conduct an investigation for the violations of Public records laws. Based on your past investigations (see attached) no violations were found because the municipality (City of Edgewater) did not have a policy in place for detailing the archiving requirements of text messages. The City of Port Orange has such a policy in "1-32 Electronic Information Systems" which mandates work related text messages or emails be sent to the City Clerk's Office within 72 hours. I have previous public records requests for text messages from the City Council, City Manager, City Attorney, City Clerk and Police Department Administration for text messages that had to be retrieved (prior to 2019) from the City employees City issued cell phones. This would have meant that employees involved in those specific requests for text messages did not adhere to City Policy 1-32, which they signed an acknowledgement and understanding form (attached).

I will be the first to admit that the current advancement of technology does require a catch up period of governmental agencies. After several records requests and my pointing out statutory deficiencies the City instituted a mobile device management system for mobile devices. I was satisfied with the progress of the City and their desire to comply with the law.

My complaint is that I requested a litigation hold be placed on text messages. I messages for the City issued cell phones and tablets for the Port Orange Police Department Administration (see attached October 1st email). After this request and prior to Captain Kimerly Kilpatrick's retirement from the Port Orange Police Department her electronic devices were allegedly deleted. This was supposedly documented in IA #2021-0014. I have requested this investigation since it is closed, but have been informed that the City Servers that back up the public records, crashed and volumes of records have been lost. I believe these records are relevant to the exploitation of David Fouts and the Port Orange Police Departments refusal to investigate to include witness tampering and harassment for reporting the concerns. .

I believe the deletion of public records after my request for a hold was intentional. I suspect that the investigation into this deletion of public records will reveal that there is no way to determine who deleted the records. It is very concerning that the potential suspect could enter a secure facility, a locked Captain's Office under video surveillance, and access password protected devices without detection.

This leaves a lot of questions as to the security of the Port Orange Police Department's evidence room. The evidence room of a Police Department should be beyond reproach since that evidence is used to remove, prosecute and take away the freedoms of the Citizens of the Great State of Florida. If the City issued devices of Kimberly Kilpatrick were deleted outside the retention requirements and approval of the Records Management Liaison Officer and no suspect was identified I would also have to question the integrity of the evidence room. Kimberly Kilpatrick was one of a select group of department employees that had access to evidence and the evidence locker. If some unidentified suspect were able to delete public records from her City issued devices couldn't they have also deleted or contaminated evidence in the evidence room.

Mr. Ried the only way to answer these questions is for your office to conduct a criminal investigation.

Matthew Jones and Manny Marino please consider this a public records request for any documentation the City has put out about the loss of a large amount of public records. I am sure you are both aware of the reporting requirements for any civil or criminal evidence procedure. Based on past practice from the City I am sure the response for a public records request is no records found. That My friends is unacceptable if the records were lost or potentially deleted should be accurately reported.

The Public Corruption Unit of the FBI please monitor this complaint because I believe the players involved will continue to refuse to investigate or prosecute.

Mr Reid I believe the following City of Port Orange Employees have information on the intentional violation of F.S 119:

- Matthen Jones (City Attorney)
- Robin Fenwick (City Clerk)
- Manny Marino (POPD Chief of Police)
- William Proctor (Ass. Chief)
- Scott Brozio (POPD Patrol?CID Captain)
- Kimberly Kilpatrick (Former POD Captain CID/Patrol)
- Thomas Aiken (POPD IA Investigator)
- Eric Fisher (Admin Captain)
- Heather Rubin (POPD Records Supervisor)
- James Hicks (Port Orange IT Director)
- Current Port Orange City Council
- Thomas Grimaldi (Former Police Chief)
- Harold Johanson (former City Manager)

Please contact me in advance for any interviews as I will be bringing an attorney since I do not trust your office!