

State Attorney's Office
SPECIAL PROSECUTION DIVISION

M E M O R A N D U M

TO: Chief ASA Heavener S.A. NO: 18SAO15842AD
FROM: Investigators Adams and Zipperer CASE NO:
RE: ALLEGATIONS OF SUNSHINE LAW S.I. NO:
VIOLATIONS
DATE: 02/11/19

I. Initiation of Investigation

Captioned investigation¹ was initiated based on information provided by the City of Jacksonville (COJ) Mayor's Office and the COJ Office of the Inspector General (OIG) related to possible violations of Florida's Government-in-the-Sunshine Law, Florida Statutes, Chapter 286 (hereafter "Sunshine Law"). This information included an allegation related to a COJ City Council Member purportedly offering to deliver a block of votes for City Council President.

The initial telephone record² analysis conducted by the COJ OIG indicated possible Sunshine Law violations involving COJ City Council Members. Specifically, in May of 2018, the COJ OIG provided preliminary findings of telephone record analysis which identified substantial telephonic contact between City Council Members Garrett Dennis and Anna Lopez Brosche. Additionally, the telephone record analysis was compared with the dates and times of City Council meetings for the relevant period of time (See Below). The preliminary findings by the COJ OIG included a possible correlation between contacts and significant City Council meetings or hearings.

II. Telephone Record Analysis

¹The initial allegations were received by the State Attorney's Office on February 28, 2018. The investigation was assigned to Investigator Adams on May 15, 2018.

²The initial analysis was based on records obtained in response to an investigative subpoena for telephone number (904) 887-1870 (Dennis) issued on March 16, 2018.

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The initial steps of the investigation focused on additional telephone record analysis³ by the COJ OIG. Records were received in response to investigative subpoenas for telephone numbers (904) 887-1870 (Dennis); (904) 537-7202 (Brosche); (904) 753-8395 (Katrina Brown); (904) 424-0963 (Sam Newby); (904) 703-7642 (Jeneen Sanders); and (904) 710-7100 (John Crescimbeni) for relevant time periods⁴. [Note: Consideration was given to obtaining telephone records for all City Council Members. In addition to insufficient predication, such an investigative step would have been well beyond the scope of the initial complaint and the preliminary findings related to possible Sunshine Law violations. There were also investigative limitations related to obtaining content of communications as noted below. Additionally, telephone records which further established contacts between City Council Members without information related to the content of the communications, as well as the analysis of records for additional telephone numbers or continued analysis of the records obtained, would not substantively further the investigation. Consequently, no further analysis was conducted].

As set forth in Exhibit 1 (copies of subpoenas included), the telephone record analysis identified numerous calls between Dennis and Jeneen Sanders, the Executive Council Assistant to Brosche; Dennis and Brosche; Dennis and City Council Member Katrina Brown; Katrina Brown and City Council Member Reggie Brown; Katrina Brown and City Council Member Reggie Gaffney; and Katrina Brown and City Council Member Sam Newby. Other calls between City Council Members were also identified. Below is a further breakdown of the analysis conducted by the COJ OIG.

³Investigative subpoenas were issued on May 31, 2018, for telephone numbers (904) 753-8395 (K. Brown); (904) 537-7202 (Brosche) and (904) 887-1870 (Dennis). Subpoenas were also issued on July 18, 2018, for telephone numbers (904) 703-7642 (Sanders); (904) 710-7100 (Crescimbeni); (904) 424-0963 (Newby) and (904) 753-8395 (K. Brown). Additional subpoenas were issued on September 28, 2018, for telephone numbers (904) 887-1870 (Dennis) and (904) 537-7202 (Brosche). On October 19, 2018, another subpoena was issued for telephone number (904) 537-7202 after it was determined the carrier for this telephone number had been changed in July of 2018.

⁴Some of the telephone record providers included text message contacts. It should also be noted that without information related to the content of communications, as further described below, it is not known if duplicate information (telephone or text message contacts) was provided. The COJ OIG analysis was based solely on the records produced by the providers.

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A. ANALYSIS OF TELEPHONE NUMBER (904) 887-1870 (Subscriber: Dennis)

1. Analysis* of (904) 887-1870 for the period from October 1, 2017 to February 28, 2018**

Phone Number	Identity of Person Called	Number of Calls	Amount of Time in Seconds
(904) 703-7642	Jeneen Sanders	1,771	940,443
(904) 887-1872	Dennis's wife	947	131,852
(904) 537-7202	Anna Lopez Brosche	450	220,475
(904) 753-8395	Katrina Brown	120	32,932

*The analysis also identified calls between Dennis and other City Council Members ranging from 0-36 calls for the time period noted.

**The time period covered by the initial subpoena was requested by the COJ OIG. Subpoena requests for records covering additional periods of time and telephone numbers, as noted below, were based on the results of the investigation, including additional telephone record analysis.

2. Analysis* of (904) 887-1870** for the period from March 1, 2018 to May 31, 2018

Phone Number	Identity of Person Called	Number of Calls	Amount of Time in Seconds
(904) 703-7642	Jeneen Sanders	469	211,510
(904) 887-1872	Dennis's wife	392	71,110
(904) 537-7202	Anna Lopez Brosche	0	0
(904) 753-8395	Katrina Brown	95	29,086

*The analysis also identified calls between Dennis and other City Council Members ranging from 0-47 calls for the time period noted.

**It should also be noted that the records for Dennis's telephone number identified instances when *67 was used before the telephone number for Sanders. The records provided in response to the subpoena indicated that *67 "Activates Selective Caller ID Block."

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3. Analysis* of (904) 887-1870 for the period from May 31, 2018 to September 28, 2018

Phone Number	Identity of Person Called	Number of Calls	Amount of Time in Seconds
(904) 703-7642	Jeneen Sanders	888	294,238
(904) 887-1872	Dennis's wife	602	91,669
(904) 537-7202	Anna Lopez Brosche	4	3415
(904) 753-8395	Katrina Brown	15	3921

*The analysis also identified calls between Dennis and other City Council Members ranging from 0-22 calls for the time period noted.

B. ANALYSIS OF TELEPHONE NUMBER (904) 537-7202 (Subscriber: Brosche)

1. Analysis* of (904) 537-7202 for the period from October 1, 2017 to May 31, 2018

Phone Number	Identity of Person Called	Number of Contacts (Texts and Calls)	Amount of Time in Seconds
(904) 887-1870	Dennis	4987	395,215
(904) 703-7642	Sanders	358	71,110
(904) 424-0963	Newby	99	14,609
(904) 710-7100	Crescimbeni	81	13,776

*The analysis also identified calls between Brosche and other City Council Members ranging from 2-59 calls for the time period noted.

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2. Analysis* of (904) 537-7202 for the period from May 31, 2018 to July 20, 2018

Phone Number	Identity of Person Called	Number of Contacts (Texts and Calls)	Amount of Time in Seconds
(904) 887-1870	Dennis	12	11,419
(904) 703-7642	Sanders	206	52,686
(904) 424-0963	Newby	70	13,360
(904) 710-7100	Crescimbeni	36	4188

*The analysis also identified calls between Brosche and other City Council Members ranging from 0-15 calls for the time period noted.

3. Analysis* of (904) 537-7202 for the period from July 1, 2018** to October 19, 2018

Phone Number	Identity of Person Called	Number of Contacts (Texts and Calls)	Amount of Time in Seconds
(904) 887-1870	Dennis	3	312
(904) 703-7642	Sanders	77	15,923
(904) 424-0963	Newby	1	0

*The analysis also identified calls between Brosche and other City Council Members ranging from 0-9 calls for the time period noted.

**The carrier for the telephone number associated with Brosche was changed in July of 2018.

C. ANALYSIS OF TELEPHONE NUMBER (904) 753-8395 (Subscriber: K. Brown)

1. Analysis* of (904) 753-8395 for the period from October 1, 2017 to May 31, 2018

Phone Number	Identity of Person Called	Number of Contacts (Texts and Calls)	Amount of Time in Seconds
(904) 444-2588	R. Brown	10,555	705,745
(904) 349-7534	Gaffney	1802	266,197
(904) 424-0963	Newby	678	125,071
(904) 887-1870	Dennis	257	61,535

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(904) 629-3525	Bowman	45	8,261
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*The analysis also identified calls between Brown and other City Council Members ranging from 0-11 calls for the time period noted.

2. Analysis* of (904) 753-8395 for the period from March 1, 2018 to July 18, 2018**

Phone Number	Identity of Person Called	Number of Contacts (Texts and Calls)	Amount of Time in Seconds
(904) 444-2588	R. Brown	2,043	183,006
(904) 349-7534	Gaffney	2	12
(904) 424-0963	Newby	59	11,501
(904) 887-1870	Dennis	21	4,094

*The analysis also identified calls between Brown and other City Council Members ranging from 0-10 calls for the time period noted.

**See note in COJ OIG report related to overlapped date range. The date range for the second set of telephone records overlapped with the date range of the first telephone records. The telephone records for the overlapped date range were not included in the analysis.

D. ANALYSIS OF TELEPHONE NUMBER (904) 424-0963 (Subscriber: Newby)

1. Analysis* of (904) 424-0963 for the period from March 1, 2018 to July 18, 2018

Phone Number	Identity of Person Called	Number of Contacts (Texts and Calls)	Amount of Time in Seconds
(904) 753-8395	K. Brown	397	60,309
(904) 444-2588	R. Brown	122	8826
(904) 537-7202	Brosche	45	7345
(904) 962-5245	Ferraro	33	4528

*The analysis also identified calls between Newby and other City Council Members ranging from 3-26 calls for the time period noted.

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E. ANALYSIS OF TELEPHONE NUMBER (904) 703-7642 (Subscriber: Sanders)

1. Analysis of (904) 703-7642 for the period from March 1, 2018 to July 18, 2018

Phone Number	Identity of Person Called	Number of Calls	Amount of Time in Seconds*
(904) 887-1870**	Dennis	1967	
(904) 537-7202	Brosche	141	
(904) 962-5245	Ferraro	2	

*The COJ OIG did not calculate the duration of Sanders' telephone contacts with City Council Members.

**The COJ OIG analysis of these records also identified the use of *67 before calls to the telephone number associated with Dennis.

F. ANALYSIS OF TELEPHONE NUMBER (904) 710-7100 (Subscriber: Crescimbeni)

1. Analysis* of (904) 710-7100 for the period from March 1, 2018 to July 19, 2018

Phone Number	Identity of Person Called	Number of Calls	Amount of Time in Seconds
(904) 537-7202	Brosche	51	6275
(904) 887-1870	Dennis	23	1261
(904) 655-3525	Hazouri	18	2344
(904) 334-3786	Gulliford	6	115

*The analysis also identified calls between Crescimbeni and City Council Members Becton, Love and Morgan ranging from 2-4 calls for the time period noted.

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G. Analysis of Telephone Records in Relation to City Council Meetings

As set forth in Exhibit 2, the COJ OIG investigation included the analysis of the telephone records in relation to a time line of City Council meetings for relevant periods of time. This analysis showed that Dennis regularly communicated with Brosche, Katrina Brown and other City Council Members around the time of meetings.

H. Significant Findings from Initial Telephone Record Analysis

1. The number of calls between Dennis and Sanders; Dennis and Brosche; Dennis and Katrina Brown; Katrina Brown and Reggie Brown; Katrina Brown and Reggie Gaffney; and Katrina Brown and Sam Newby seemed excessive in the absence of additional information related to outside business, personal, or other relationships between these parties. (Note: As described below, after being informed of the results of the telephone record analysis during an interview, Sanders identified Dennis as her friend but would not provide additional information about their relationship. She provided additional information in a later sworn statement. The additional information, however, was very limited).

2. As noted above, the contacts between Dennis and Brosche discontinued for a period of time and were significantly reduced during the last time period analyzed. No information was developed to indicate a reason why the telephone contacts suddenly ceased or significantly decreased. It should be noted that the frequency of these communications ceased shortly after the initial complaint and around the time the first subpoenas were served.

3. The analysis of Crescimbeni's telephone records identified contacts with other City Council Members. These contacts, however, were significantly less in frequency and duration compared to the results of the analysis of other telephone records.

III. Interviews

A. Procedures

During the period from August 29, 2018, to September 19, 2018, current City Council Members, certain Executive Council Assistants and members of the Mayor's Office were interviewed (This date range is for the initial interviews conducted as part of this investigation. Additional follow up interviews were conducted after this time period). The interviews were facilitated through direct contacts requesting voluntary interviews at a convenient time and location for the interviewees. The interviews were also structured through the use of a standard guideline for the questions (See Exhibit 3). Additionally, all of the interviewees associated with the City Council were asked to review and sign a letter from the Chief Investigator related to the complaints about potential non-compliance with the Sunshine Law. If appropriate, some interviewees were also asked for consent to search telephones for information related to this investigation. Consent was either refused or revoked after the COJ Office of the General Counsel (OGC) became involved (as noted below). Attached is a copy of the consent form used (See Exhibit 4).

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(Note: It is this office's understanding that, after the first few interviews, representatives of the COJ OGC coordinated with those who had not yet been interviewed to attend their interviews. Concerns about the scope of OGC's representation and attendance at the interviews were raised during some of the interviews. An OGC representative, however, continued to attend the interviews. It was the opinion of several of the Investigators that this had a chilling effect on some of the interviews. The interviews were continued, though, in an effort to gather relevant information in a timely manner).

B. Information Developed from Interviews

Some of the significant information obtained from the interviews is set forth below. (The reports of the interviews conducted, including follow up contacts, are attached. (See Exhibit 5).

1. No City Council Members identified relationships with other members outside of City Council business that would involve a substantial volume of communications and contacts outside of City Council meetings or hearings. As such, the purpose for the contacts between the parties identified through the telephone record analysis has not been determined.

2. Although the information in the original allegation related to possible Sunshine Law violations involving the delivery of a block of votes for City Council President, this allegation was not fully corroborated, but the results of the interviews identified other possible Sunshine Law violations. Specifically, some of the City Council Members referenced possible violations related to the election of Brosche as City Council President in 2017.

3. Additionally, some of the interviewees noted that, following Brosche's election as City Council President in 2017, Dennis was named the Chairman of the Finance Committee. City Council Members Katrina Brown, Reginald Gaffney, and Reggie Brown, who also all voted for Brosche, were named to this committee. The committee was described as significant because it involved approval of certain funding. No direct information was developed to determine if the committee took any specific action to benefit any of the City Council Members, or associates, during that time.

4. During his initial interview, current City Council President Aaron Bowman provided information about Dennis attempting to sway or influence the vote for the 2018 election for City Council President against Bowman. He was not comfortable, however, providing the names of the individuals who told him about Dennis's activities or discussed the matter with him (Bowman). During his second interview, City Council Member Tommy Hazouri said he told Bowman that Dennis was trying to undermine him (Bowman) by saying he could not be trusted. As such, Hazouri was initially believed to be one of the individuals Bowman mentioned and corroborated Bowman's information. This was confirmed during a second interview with Bowman as described below.

5. As noted above, the telephone record analysis indicated that Brosche had substantial telephonic contacts with Dennis until March 14, 2018. During her interview, she did not provide information that would assist in understanding the volume of contacts with Dennis or a reason for the discontinuation or significant reduction in contacts (Note: The results of the telephone

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record analysis were not shared with Brosche during the interview). Brosche indicated she had been in contact with other City Council Members outside of official hearings or proceedings but not about City Council business. She provided examples of contacts regarding times of meetings or whether another member was going to an event. Brosche said she otherwise does not regularly contact other City Council Members for matters unrelated to City Council business.

6. During Dennis's interview, he indicated that he knew all about the Sunshine Law and had nothing to hide. When asked about communications between City Council matters after hours on the phone, Dennis stated "all he did was play golf and didn't have time for all of that." These statements were not consistent with the information obtained from the other interviews or the telephone record analysis. (Note: The results of the telephone record analysis were not shared with Dennis during the interview). Additionally, Dennis was the primary City Council Member identified by several of the individuals interviewed as communicating with other City Council Members outside of official meetings or public hearings.

7. During the interview of Sanders, she was advised that the investigation identified over seventeen hundred (1700) calls between her and Dennis. She responded that they were friends but would not provide additional information. She also said she was not asked to facilitate contacts on Brosche's behalf. The volume of contacts between the telephone numbers associated with Sanders and Dennis was substantial and was almost double the number of contacts Dennis had with the telephone number associated with his wife during certain time periods. (It should be noted that other telephone numbers may have been used by the individuals involved in this investigation during the relevant periods of time; however, no additional numbers were identified).

8. Sandra Lane Smith, the former Executive Council Assistant (ECA) to Dennis was contacted for a follow up interview. Smith indicated that she had previously provided a statement to the State Attorney's Office and was not interested in being interviewed again. She also noted that her employment as an ECA to Dennis was terminated on November 28, 2018. Smith explained that, following the City Council meeting on November 27, 2018, Sam Mousa, Brian Hughes and Dennis had an argument. During the argument, a reference was made to Smith seeking another position within the City of Jacksonville Administration. The next day, Dennis terminated Smith's employment. Smith, however, indicated that she was not interested in being interviewed further.

9. Although information was provided that Crescimbeni had been approached by Dennis about a block of votes, Crescimbeni denied any such contact. Crescimbeni was interviewed again about this matter just before the investigation was concluded. He said he had no recollection of Dennis approaching him about the votes.

10. Counsel for both Brosche and Dennis were contacted just prior to this case being closed to afford an opportunity to provide additional information. Dennis's attorney indicated that no additional information would be provided. Brosche's attorney indicated the same.

11. Deputy General Counsel Jon R. Phillips was also contacted just prior to this case being closed to afford an opportunity for Newby and Gaffney to provide additional information. Phillips indicated that both Gaffney and Newby said they talk with other City Council Members about

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matters unrelated to council business. Neither had additional information but indicated they would both be willing to answer specific questions, if needed.

C. Subpoenas for Sworn Statements

The results of the interviews and investigation identified several inconsistencies in statements. Consequently, a decision was made to serve subpoenas to compel testimony. Efforts were made to facilitate service of the subpoenas through the COJ OGC.

1. On November 26, 2018, Jeneen Sanders was scheduled to appear at the State Attorney's Office pursuant to a subpoena. The appearance was initially postponed at the request of her attorney. Sanders provided a sworn statement on January 7, 2019. The statement was provided at the State Attorney's Office and Sanders was represented by counsel. No new material information was provided during the statement. Despite the sworn statement, an understanding of the volume of contacts between Sanders and Dennis is still not clear. (See Exhibit 6 transcript).

2. This office was prepared to issue a subpoena to compel Bowman to provide the names of certain City Council members who had talked with him about Dennis's efforts to influence the City Council President election involving Bowman. This matter was discussed with Bowman during the initial interview but he was not comfortable providing the names at that time, as noted above. Bowman agreed to be interviewed further about the names of these City Council members in lieu of providing a sworn statement pursuant to a subpoena. As such, a subsequent interview of Bowman was conducted on December 14, 2018. During the interview, Bowman said that City Council Member Katrina Brown told him that Dennis was saying bad things about him (Bowman) and was possibly doing it to get them not to vote for Bowman as President. Bowman also said Hazouri told him (Bowman) that Dennis made claims about Bowman's support for a City Council Member who was running for Vice President. According to Bowman, the claims were not true. Additionally, City Council Members Gaffney and Newby both told Bowman (separately) that Dennis told them he (Dennis) could not vote for Bowman but did not specifically ask them not to vote for him (Bowman).

3. This office was prepared to issue a subpoena to compel Crescimbeni to provide additional information about whether he had been approached about votes to be elected City Council President. Crescimbeni agreed to be interviewed further in lieu of providing a sworn statement pursuant to a subpoena. As such, a subsequent interview of Crescimbeni was conducted on December 20, 2018. During the interview, Crescimbeni said he was never approached by Dennis about providing votes for him (Crescimbeni) to be elected President of the City Council. Crescimbeni believed, however, that such a situation occurred in 2017 when Brosche was elected City Council President.

IV. Investigative Limitations

A violation of the Sunshine Law is classified under the Florida Statutes as a non-criminal infraction or, if knowingly violated, a Second Degree Misdemeanor. Consequently, there were

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limitations as to investigative methods and tools used in this investigation. In consultation with Chief Assistant Heavener, it was determined that more intrusive investigative techniques, such as search warrants or wiretaps, were not authorized due to the classification of the violation and the absence of sufficient probable cause. As such, the content of communications between City Council Members and others was not obtained during the course of the investigation.

V. Conclusion

This investigation was initially undertaken cautiously to ensure there was sufficient predication beyond a mere allegation. As such, this office did not commit to a full investigation until additional facts were developed. Once information from the telephone records was analyzed, sufficient predication was established since the analysis indicated possible violations of the Sunshine Law.

It was also determined that the available investigative techniques were limited due to the classification of the potential crime being investigated. More intrusive techniques, which could have determined the content of communications, were not authorized. Consequently, the investigation was limited to telephone record analysis, interviews, sworn statements and related techniques.

Because of the limitations regarding the use of certain investigative techniques, subpoenas to compel testimony were necessary. Although the results of the interviews and investigation identified several inconsistencies in the statements provided, and a determination that some of the interviewees appeared to not be completely forthcoming, a decision was made to use subpoenas to compel testimony only for certain witnesses. This was due primarily to the immunity protections provided for sworn statements. Subpoenas for sworn statements were used selectively to ensure there would be no bar to future criminal prosecution if information was developed indicating a criminal purpose for the contacts identified as part of this investigation.

As noted above, the telephone record analysis identified significant contacts between Dennis and Brosche; Dennis and Sanders; Dennis and Katrina Brown; Katrina Brown and Reggie Brown; Katrina Brown and Reggie Gaffney; and Katrina Brown and Sam Newby. Contacts between other City Council Members were also identified. The analysis of the telephone records in relation to the dates and times of City Council meetings (as identified in the COJ OIG investigation) was also significant because of the specific timing and volume of contacts between the parties.

Although the specific allegations related to delivering a block of votes for City Council President were not fully corroborated through interviews, other information related to possible Sunshine Law violations was identified. Some of the information provided by those interviewed, however, was not consistent with the telephone record analysis or information developed from other interviews.

Although the investigation identified a pattern of conduct involving substantial communications between City Council Members, and at least one Executive Council Assistant, without a clear reason or justification, as well as other concerning conduct, criminal prosecution for Sunshine Law violations can not be pursued, at this time, without the content of the communications. As

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such, it is recommended that the investigation specifically focusing on Sunshine Law violations related to City Council matters, as set forth in the initial allegation and identified through the COJ OIG telephone record analysis, be closed.

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