

From: Commissioner, D2
Sent: Monday, February 11, 2019 7:36 PM
To: Maureen Rupe ; Bentley, Eden
Cc: Abbate, Frank B ; Commissioner, D2 ; dberman@floridatoday.com ; Tom Palermo ; Giles Malone
Subject: RE: Use of a private phone/email address for county business

Ms. Rupe:

Thank you for having copied me on your recent message to County Attorney Eden Bentley and County Manager Frank Abbate.

- (1) Unless Attorney Bentley has previously indicated that she does not object to your addressing her by first name, I kindly ask that you consider addressing her either as Ms. Bentley or Attorney Bentley, as would and ought to be expected in polite society. I believe Ms. Bentley has earned this over a distinguished career of hard work on behalf of Brevard County.

I'm going to thoroughly address your recent email in the order in which your comments are contained therein.

- (2) First, if you genuinely possess the erroneous belief that I "could not conduct county business on a private cell phone," as I've openly and unambiguously indicated I have done, you are entitled to continue operating with this erroneous legal conclusion in mind. Please be advised that social media is not a good source for legal information.

- (3) Moreover, your mischaracterization of the statements contained in my email replying to your public records request is telling. You indicated, in pertinent part, I "could not remember how many calls [I] had taken on this private phone in relation to the Children's Services issue, and that [I] had not taken note of their names or what they had said..."

Your statement is, at best, tremendously misleading. My timely reply, which you incorrectly referenced, stated verbatim as follows:

"Please find below records from my cell that may pertain, even if only in part, to the CSC. The records may well be overly inclusive as I do not recall the nature of each and every call. Again, these are from my cell phone. I will request that Kika check the call log, in the office, to see if it is notated which particular calls pertained to the CSC. It is unlikely that all calls pertaining to the CSC were notated as quite a few were in favor of dissolution without any particularly noteworthy or unique commentary."

- (3a) As I clearly indicated, there was a possibility that one or more calls not pertaining to the CSC may have been inadvertently included. Erring on the side of caution, I produced records of each and every call that I had reason to suspect referenced the CSC. The manner in which your recent email reads suggests that records were withheld, which is unambiguously not the case.

My statement regarding not necessarily having notes regarding each and every call did not, in any way, pertain to my cellular phone. It pertained to the office telephone as could be derived from the context in which the statement was made. In English, a particular statement typically refers to the immediate past item upon which an author has commented. Apparently, this was missed by you. If this is not the case, the only alternative is that you knew this and simply lied. Had you asked me instead of making false allegations, I would happily have cleared this up without the need to highlight your mistake to other individuals.

- (4) If you are aware of one or more law(s) requiring that my office memorialize each and every call relating to the county commission, in writing, please educate me because that would be the first I will have heard of any such requirement.

I have news for you: In this country, the United States of America, which prizes freedom, one is entitled to do whatever one would like so long as there is no law proscribing it. You are free to dislike the laws of this nation just as I am free to continue saving taxpayer funds by avoiding the unnecessary expense of a county-issued cell phone which, incidentally, would result in absolutely nothing additional having to be disclosed pursuant to a Chapter 119, Fla. Stat., request.

(6) Something interesting to note is that I had zero obligation to advise that the calls referenced were received on my cell phone. I volunteered this information to be fully candid. Apparently, no good deed goes unpunished... assuming, of course, the good deed was done by someone with whom you disagree politically.

Moving on, you misleadingly indicated, in pertinent part, that you, "recall a similar situation [you] had with then Commissioner Trudi Infantini..." That's patently false. As I understand it, in a nutshell, you unreasonably requested to sit in her office and review every email and either were unaware or could have cared less for the exceptions to Chapter 119, Fla. Stat., provided for by 119.071, Fla. Stat.

You correctly and lawfully were prohibited from doing as you pleased and you were apparently upset by this to the extent that the newspaper was unnecessarily involved. I'll save you the time by copying Florida Today on this message as I have nothing to hide and do not wish to allow you to mischaracterize my statements yet again as you have a documented history of doing.

(7) As to your request that County Attorney Eden Bentley advise you on the state of the law with respect to whether conducting county business on a private phone or email account is permissible, she will not be doing this for you. Attorney Bentley is not obliged to provide legal advice for each and every resident of Brevard County. Her position entails providing legal advice for county employees including commissioners. To have otherwise would potentially result in chaos and an unreasonable expenditure of taxpayer funds. Moreover, asking Attorney Bentley to provide legal advice which could, even theoretically, be in conflict with the obligations she owes her employer is, if asked mistakenly, tactless or, if asked knowingly, repugnant.

(10) If you wish to delve into the state of the law, I suggest you contact the Florida Bar Lawyer Referral Service and retain an attorney, on your dime, who will be able to advise you accordingly. You are also free to file an ethics complaint or a grievance, against me or anyone else of your choosing, with any entity you desire.

In sum, you misleadingly mischaracterized multiple communications, you will not be entitled to pro bono services by the County Attorney or her staff, and you are welcome to seek legal advice from an attorney you retain, with your own funds, and proceed accordingly.

(11) I am putting you on notice that I vigorously pursue all lawful remedies against those who publicly defame me and I have no qualms making public examples of those who are imprudent enough to do so. While you are welcome to say what you'd like, I strongly advise you to fact check any disparaging comments you may otherwise consider publishing.

(12) Apologies, after the fact, will not be sufficient as my due diligence has revealed that you may have a history of making unreasonable public records requests and you may have a history of complaining about not receiving what you have no lawful right to inspect. My research additionally suggests that you have a history of doing this, not to obtain any particular information, but for the actual purpose of inconveniencing those on the opposite side of the political spectrum.

Instead of engaging in anything approaching intelligent debate, people like you would rather incite polarization of those with differing views. That would be fine but for the burden your antics put on county staff, hence this rather strong response to you.

As a taxpayer, I resent your continuing abuse of county staff. They have difficult jobs to conduct and you should be ashamed of your tactics and, by extension, the burden your conduct places on well-intentioned government employees.

You're welcome, in advance, for again timely replying to your inquiry. I imagine you appreciated the timeliness and thoroughness of my previous but simply forgot the common courtesy of saying so.

- (13) Lastly, as a friendly suggestion, you may wish to revise or remove the quote at the base of your signature block. You'd be hard pressed to find your "inferior" at any level of elected government- all the more so when it comes to manners and civility.

Truly,

Bryan A. Lober