

INVESTIGATION REPORT
City of North Miami Beach

Employer/Department:	City of North Miami Beach (hereinafter "the City" or "City") – Clerk's Office
Complainant:	Commissioner Paule Villard
Subject of Complaint:	City Clerk Pamela Latimore
Issues:	<ol style="list-style-type: none"> 1. Whether or not Pamela Latimore inappropriately created and/or altered a public record? 2. Whether or not Pamela Latimore misrepresented her role in creating/altering a public record? 3. Whether or not Pamela Latimore was rude and disrespectful to Commissioner Villard? 4. Whether or not Pamela Latimore falsified her time?
Investigator:	Sharon P. Kelley, EmPLar Consultants LLC

I. Introduction

On March 19, 2019, the City Commission passed a motion to investigate matters outlined in a Chronology of Events/Performance Concerns (hereinafter "the Chronology" or "Chronology") submitted by Commissioner Paule Villard alleging misconduct by City Clerk Pamela Latimore. (Attachments A & B). The City retained the undersigned Investigator to conduct the investigation. (Attachment C).

Investigative interviews were conducted between April 2, 2019 and May 5, 2019, to accommodate individuals' schedules. All interviewees participated in in-person interviews except for three individuals whose interviews were conducted telephonically due to scheduling and location constraints.

II. Interviews¹

A. Complainant:

1. Paule Villard, Commissioner

B. Interviewees:

2. Felix Amador, Network Administrator
3. Michael Gonzalez, Network Administrator
4. Gil Sosa, Senior IT Manager
5. Andrise Bernard, Assistant City Clerk
6. Sarah Johnston, City Attorney
7. Esmond Scott, City Manager
8. Greg Williams, Chief of Staff
9. Alix Desulme, Councilman City of North Miami
10. Aja Dorsainvil, Marketing & Special Events Specialist
11. Lyle Sumek, Lyle Sumek & Associates, Inc. (telephone interview)
12. Nicholas Williams, Public Works Aide
13. George Vallejo, Former Mayor, City of North Miami Beach (telephone interview)

¹ This Investigator requested an interview with Mayor Anthony DeFillipo. He declined said request and submitted an email statement instead. (Attachment Da). Subsequently, after Latimore's interview, the Mayor submitted a Declaration. (Attachment Db).

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C. Subject of Complaint:

14. Pamela Latimore, City Clerk

D. Forensics Examiner:

15. Jake Stone, Senior Managing Consultant/Forensic Examiner, Capsicum Group (telephone interview)

III. Documents

A. 03/19/19 Complaint submitted by Commissioner Paule Villard with Attachments

B. Link to 03/19/19 Commission Meeting - http://citynmb.granicus.com/MediaPlayer.php?view_id=1&clip_id=117

C. Retainer letter for Sharon P. Kelley

Da-Db. 04/10/19 Email from Mayor Anthony DeFillipo and Declaration

E. Code of Ordinances – Article II. – Mayor, Vice-Mayor, City Commission

F. Code of Ordinances – Article III. – Administrative Personnel and Boards, Agencies and Committees

G. City Clerk Job Description (2/2009)

H. City Clerk Job Description

Ia-Ic. City of North Miami Beach Personnel Policies and Procedures with Signed Acknowledgement

J. Miami-Dade Honor Code

K. City of North Miami Beach Statement of Ethics

L. Resolution No. R2017-81

M. 02/19/19 Council Conference Agenda and Commission Meeting Agenda

N. 03/18/19 Public Notice of Special Commission Meeting

O. 03/18/19 Public Notice of Special Commission Meeting Cancellation

P. 02/19/19 Email from Villard to Latimore

Q. 02/19/19 Email from Latimore to Villard, Scott and Johnston

R. 02/19/19 Email from Latimore to Villard, Scott and Johnston with Attachment

S. 02/19/19 Email from Johnston to Villard, Latimore, Scott, Vincente

Ta-Tb. Metadata Report and Computer Forensics Report with Exhibits

U. Amador Incident Report

V. Gonzalez Incident Report

W. 02/26/19 Email from Scott to Sosa

X. 02/26/19 Email from Johnston to Scott, Sosa

Y. 02/26/19 Email chain with Scott, Johnston, Sosa

Z. List of Key Recipients

AA. 02/18/19 Scott Group Text Messages

BB. Scott's Handwritten Notes – 02/26/19 – 03/05/19

CC. 02/27/19 Scott Text Messages with Latimore

DD. 03/02/16 Memorandum Re: Proclamations

EE. 02/23/16 Email from Latimore to Joseph with Attachment

FF. 02/26/19 Email chain with Joseph and Latimore with Attachment

GG. 02/20/17 – 07/17/17 Vallejo Text Messages Excerpts

HH. 05/05/19 Letter from Pizzi to Schneider, Kantor, Kelley

II. Meeting Procedures/Points for Discussion with Metadata Report

JJ. 8/15/17 City Commission Meeting Agenda

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IV. Background

The City of North Miami Beach (hereinafter “the City” or “City”) is in Miami-Dade County, Florida and has a population of just over 44,000 residents. The City employs approximately 400 people.

The City Code of Ordinances (hereinafter “the City Code” or “City Code”) at Article II, Sec. 2.1 – 2.2 establishes a seven (7) member Commission, consisting of a Mayor and six (6) Commissioners.² (Attachment E). The current Commission Members are as follows: Mayor Anthony F. DeFillipo; Commissioner McKenzie Fleurimond; Commissioner Michael Joseph; Commissioner Barbara Kramer; Commissioner Phyllis S. Smith; Commissioner Fortuna Smukler; and, Commissioner Paule Villard. The City Code, at Article III, Sec. 3.1 – 3.3.1, also establishes three (3) Charter Officers who are appointed by and serve at the pleasure of the Commission. (Attachment F). The current Charter Officers are as follows: City Manager Esmond Scott; City Attorney Sarah Johnston; and, City Clerk Pamela Latimore.

In addition to the powers and duties of the City Clerk as outlined in the City Code noted above, more specific duties and responsibilities are outlined in the City Clerk Job Description (02/2009). (Attachments G & H). Workplace conduct for the City Clerk is governed by the City Code as well as Personnel Policies and Procedures. (Attachment Ia-Ic).³ All elected and appointed officials working in Miami-Dade County are governed by an Honor Code. (Attachment J).

Latimore has been employed with the City in the position of City Clerk since February 17, 2011. On August 15, 2017, by Resolution No. R2017-81, Latimore’s Employment Contract with the Commission was continued through December 31, 2020. (Attachment L).

November 27, 2018, Paule Villard was sworn in as a new Commissioner to serve a four-year term. In addition, Villard was elected by the Commission to serve as Vice-Mayor. At the same time, Anthony DeFillipo, was sworn in as Mayor to serve a remaining two-year term. DeFillipo served as a City Commissioner for approximately five and a half years immediately prior to election for Mayor. George Vallejo, who preceded Mayor DeFillipo, served as Mayor from May 24, 2011 – April 10, 2018.

Sometime in mid-February, Villard expressed to Mayor DeFillipo and City Manager Scott that she wished to award a Key to the City to a long-time resident, Barbara Pearson, who was also scheduled to receive an Honor for Black History Month at the upcoming February 19, 2019, Commission Meeting. Villard’s idea to award the Key to Pearson was “nixed” by Scott after Latimore told him that it was inappropriate for Pearson to receive a Key. (See Section V, Summary of Interviews).

The Commission was scheduled to hold an awards Conference prior to the February 19th Commission Meeting. Pearson was scheduled to receive an Honor for Black History Month and Johnathan Cyprien was scheduled to receive a Proclamation. (Attachment M). Pearson received an Honor and was awarded a Proclamation. The

² In 2016, the elected officials name that make up the Mayor and Commissioners was changed from Council to Commission. The terms Council and Commission are used interchangeably by interviewees and on City documents. Reference to either in this Report connotes the body that comprises the elected officials.

³ Included in the City’s Personnel Policies and Procedures are the *RISE Standards and Proper Decorum Policy* at page 62 and *Use of Electronic Systems & Tools Policy* at pages 117-120.

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Proclamation was not listed on the Agenda. Cyprien was awarded a Proclamation and a Key. The Key was not listed on the Agenda.

Sometime late February 2019, Villard made it known to the Commission that she wanted to discuss communications and events involving Latimore's conduct. A Special Meeting was scheduled for March 18, 2019. (Attachment N). The Special Meeting was cancelled due to lack of a Quorum.⁴ (Attachment O).

Thereafter, at a March 19, 2019 Commission Meeting, Villard presented to the Commission the Chronology. By a 6-1 vote, the Commission passed a motion to investigate the alleged misconduct outlined in Villard's Chronology. (See Attachments A & B).

V. Summary of Interviews

Paule Villard, Commissioner (Interview dates: April 5, 2019 & April 8, 2019)

Villard stated that she spoke with both Mayor DeFillipo and City Manager Scott regarding her idea to award a long-standing and well-known resident of the City, Barbara Pearson, with a Key to the City. According to Villard, both DeFillipo and Scott separately said they had each received Keys and they thought it was a good idea. Villard indicated that Scott said the Key would be awarded at a February 19, 2019 Commission Meeting.

On Monday, February 18, 2019 (President's Day and a non-work day), at approximately 5:30pm, Villard received a phone call from City Clerk Latimore. According to Villard, Latimore, in an uncharacteristically "firm" manner stated "in a loud and disrespectful tone" that Pearson could not receive a Key. Latimore claimed she had the authority to decide who would get a Key and who would get a Proclamation as these decisions are a function of the Clerk's office and the decision is hers. Latimore stated the reasons Pearson would not get a Key was "because people were giving keys to everyone" so a resolution passed to limit the number of Keys awarded, and Pearson did not meet the criteria of "dignitary" which is what was required to be awarded a Key. Villard indicated that Latimore did say she would consider giving Pearson a Proclamation. Villard requested a copy of the resolution that supported Latimore's claim. Latimore stated she did not have access to the document as it was a holiday but would send it the next day.

After not receiving the document, by 10:31am on February 19, 2019, Villard emailed Latimore asking for the resolution. (Attachment P).⁵ Latimore responded that she was not in the office due to "car trouble." In the response email, Latimore stated that there was no resolution but rather a policy and reiterated that she would send "the document in which our policy is derived from" when she got to work. (Attachment Q). At 3:50pm that day, Latimore emailed Villard *Guidelines for Protocol Services/Documents* dated August 2017. (Attachment R).⁶ Both City Manager Scott and City Attorney Johnston were emailed as well.

After the telephone conversation with Latimore and receiving the *Guidelines for Protocol Services/Documents* dated August 2017 (hereinafter referred to as "the Guidelines" or "Guidelines"), Villard spoke with City Attorney

⁴ According to Latimore, only four (4) of the seven (7) Commission Members responded that they could attend.

⁵ Villard stated that the "Saturday" reference in her email as the day she spoke with Latimore was typed in error as they spoke on Monday, February 18th as written in the Chronology. Villard explained because Monday was a holiday, it felt like a weekend day and she inadvertently typed Saturday rather than Monday into the email.

⁶ Latimore's email noted that the, "Procedure was outlined from the Miami Dade County Office of Protocol and The City of Miami Office of Protocol."

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Johnston regarding the authority that governed issuance of a Key to the City. According to Villard, Johnston was unaware of a policy or resolution relating to issuance of a Key and stated she had never seen the Guidelines before she, Johnston, received the copy from Latimore on February 19th. Johnston thereafter emailed Villard copies of policies from other Cities in the event Villard wanted to create a policy to award Proclamations or a Key. (Attachment S).

On February 25, 2019 around 3:30pm, Villard visited the City Clerk's office on the first floor of City Hall to speak with Latimore on an unrelated issue. She was told Latimore was not at work that day. According to Villard this was the second time since December 2018 that she visited the Clerk's Office to speak with Latimore and was told Latimore was not at work. On both occasions, Villard was surprised as she, being one of Latimore's seven direct reports, was unaware that Latimore would be absent from work.

On February 26, 2019 at 1:00pm, Villard met with all three Charter Officers to discuss three issues. First, Villard asked them about procedures they follow when absent from the office. All indicated that they email or text the Commission when going to be out for one day or longer. In addition, Latimore stated she works "24/7." Second, Villard asked all three about Board Appointments.⁷ Third, Villard questioned Latimore about her representation that she is the one with authority to determine who gets a Key to the City and questioned her about the authenticity of the Guidelines she, Latimore, emailed on February 19th.

According to Villard, Latimore stated she had approval authority to determine who and who would not receive a Key and a Proclamation. This was based upon Vallejo's concern that "they" were being given out "too frequently" and that this was discussed at a Commission workshop. Latimore then said it was discussed at a strategic planning session with City Consultant Lyle Sumek, during which he and all the Commissioners received a copy. Villard also said that Latimore claimed she worked on the Guidelines with Vallejo. When asked for copies of the emails with Vallejo, Latimore stated there was none as they worked on it in her office and she hand-delivered the completed Guidelines to him.

Villard expressed that she also believed the document did not look professional and, therefore, suspected that it was created after her inquiry to Latimore requesting a copy of a resolution. Villard specifically questioned Latimore about the missing date (other than August 2017), the two blank pages following the content, the unprofessional formatting issues and why it said Council rather than Commission. Villard also pointed out that the Guidelines did not confer authority to the Clerk or outline a process or procedure. Latimore then got visibly upset, yelled, used an elevated voice and stated she made no changes to the document from what was created in August 2017 and merely "opened it and emailed it" to Villard, Scott and Johnston on February 19th. Latimore further stated something to the effect that Villard was questioning her "integrity." According to Villard, the meeting ended with Latimore hitting the table with her hands, standing up, flailing her arms and walking out saying something to the effect that the City could find another Clerk.

⁷ This issue is not an issue in this investigation and, therefore, this Investigator did not direct questions to any interviewee including Villard or Latimore related to this issue.

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The following day, Villard received from Scott a Metadata Report that depicted information regarding the creation of and modifications made to the Guidelines. (Attachment Ta-Tb).⁸ Villard felt the Metadata Report did not support Latimore’s representations and thereafter sought to bring to the attention of the Commission issues regarding what she believed to be Latimore’s alleged misconduct in changing a public document, alleged misrepresentations in her authority, alleged rude and disrespectful conduct alleged attendance infractions.

Felix Amador (Interview date: April 8, 2019)

Amador was hired with the City on March 17, 2017 as a Network Administrator working in IT. His immediate supervisor is Gil Sosa, Senior IT Manager.

On March 4, 2019, Amador was directed by Sosa to accompany Sosa and Officer Silverman of the City’s Police Department to visit the City Clerk’s office and “collect and replace” the Clerk’s computer. He was informed by Sosa that co-worker Michael Gonzalez had attempted to collect and replace the Clerk’s computer a week earlier but that he “could not retrieve” it. When he arrived at the office, Latimore was working on her computer. Officer Silverman announced the reason for their visit, and Latimore got up from the computer, took her purse and left the office. Amador was able to collect the computer without incident. He attempted to set-up a new computer for Latimore, however, she did not return to the office for the remainder of Amador’s shift.⁹

Michael Gonzalez (Interview date: April 8, 2019)

Gonzalez was hired with the City on April 4, 2016 as an IT Specialist. One year later he was promoted to Network Administrator. His immediate supervisor is Sosa.

On February 27, 2019, Gonzalez was directed by his supervisor, Sosa, to visit the City Clerk’s office and collect her hard drive. He was also told by Sosa that Latimore was aware he was coming. Around the middle of the day he went to the Clerk’s office and told Andrise Bernard, Assistant City Clerk, that he was there to “grab” Latimore’s computer. Latimore was not in the office and Bernard telephoned Latimore in his presence. Through the telephone, Gonzalez heard Latimore say something to the effect that she had “personal and private information” on the computer and was “never told anyone would be taking her computer.” He specifically heard Latimore say to Bernard, “He can not go in there right now.” Bernard told Gonzalez that Latimore said she “does not want to give you access.” Gonzalez interpreted what he heard Latimore say over the phone coupled with Bernard’s response as a “refusal to turn over the computer.” He returned on March 5, 2018 to set up Latimore’s new computer.¹⁰

Gil Sosa (Interview date: April 8, 2019)

Sosa was hired with the City on May 31, 2016 as the Senior IT Manager. His immediate supervisor is Scott.

⁸ Metadata is data, frequently embedded within a file, that describes a file or directory, which can include the locations where the content is stored, dates and times, application specific information, and permissions. This Report was produced by IT based upon City Manager Scott’s request. This is explained more fully in Section V, Summary of Interviews, below.

⁹ Amador was directed by Sosa to document what occurred on March 4th. (Attachment U).

¹⁰ Gonzalez explained that he was directed by Sosa to document what occurred on February 27th. Gonzalez noted to this investigator that he realized that the date was February 27th and inadvertently wrote February 28th instead of February 27th as the day he visited the Clerk’s office to collect her computer. (Attachment V).

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On February 26, 2019 at 2:23pm, after a brief phone conversation with Scott directing Sosa to determine whether “any edits were made” to a document, Scott emailed Sosa the Guidelines. (Attachment W). Sosa thereafter produced the Metadata Report by taking a screen-shot of the Guidelines emailed to him. He then hand-carried the Report to Scott. According to Sosa, the Metadata Report indicated that the Guidelines did not appear to exist in 2017. The Guidelines were originally created in 2016 and edited on February 19, 2019.¹¹ Later that evening, Sosa received emails from Johnston and Scott asking him to determine the history of the document and more specifically to identify the “dates and edits” that were made on February 19th and to determine if email correspondence existed between Latimore and Vallejo and Sumek. (Attachments X & Y). Although not stated in the email, Sosa stated that he was also verbally directed by Scott to determine if honoraria or protocol documents from another City or other versions of the Guidelines existed in electronic files on Latimore’s computer.

The next morning, February 27th, Sosa visited Latimore’s office to examine her computer. Latimore was present and gave Sosa access to the computer. Sosa searched for the information Scott requested, was unable to locate any other documents that met the criteria of the Guidelines or the emails requested by Scott. He, therefore, only copied the one Guidelines document onto a flash drive and reported back to Scott.¹²

Sosa then explained to Scott that to determine anything else a forensic investigation of the hard drive would need to be conducted. Sosa explained this would entail taking possession of the computer and he further suggested to do it right away because any delay in doing so could result in corruption of data. Sosa, thereafter, directed his employee, Gonzalez, to collect the computer. According to Sosa, Gonzalez reported back to him that when he, Gonzalez, went to collect the computer Latimore was not in the office, that Bernard called Latimore while he waited and that he was told by Bernard that he could not take the computer. Sosa reported this to Scott and Johnston.

Sosa explained that his next involvement was March 5, 2019, when he accompanied Officer Silverman and Amador to collect the computer. Two hard drives were recovered which were taken into possession by Silverman and later brought to Sosa’s office.¹³

As the Senior IT Manager, Sosa explained that his understanding of the application of the IT Policy is that no one can refuse to relinquish their computer.

Andrise Bernard (Interview date: April 8, 2019)

Bernard was hired with the City on October 29, 1996 as an Administrative Aide I in the Water and Billing Department. Bernard has held numerous positions including Aide to Mayor and Council. As of September 13, 2016, she has held the position of Assistant City Clerk. Her immediate supervisor is Latimore.

Bernard explained that when she worked for the Mayor and Council it was her observation that Council Members would go through the Chief of Staff to award a Key to the City. During her five years of working in that office

¹¹ According to Sosa, if a document is merely opened and emailed, the Report would not reference a change to the content. Because this Metadata Report showed activity on February 19th, a change to the content was made.

¹² Because Sosa received a copy of the Guidelines from Scott, he did not retain the copy on the flash drive.

¹³ An older hard drive had been replaced and remained under Latimore’s desk. Both hard drives were collected.

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Bernard recalls that the Keys were maintained in the Mayor and Council's office area on the fourth floor of City Hall. She further recalled that the Keys were not awarded frequently. She also stated that so long as she has been working in the Clerk's office, maintaining or awarding Keys was not within their purview. The only task they had was to create the award documents and place the item on the Agenda. When asked if the Clerk's office keeps a record of who was awarded a Key, Bernard stated no, but that it could be something that she could create through Agenda items that are prepared and maintained in the Clerk's office.¹⁴

Bernard stated that the Clerk's Office does not set policy. Rather the Clerk's office follows guidelines set by "statutes and resolutions." She recalls being present during two strategic planning sessions in 2016 led by Sumek and claims that the issue of awarding Keys was not discussed at either of those sessions.

Prior to February 2019, Bernard stated she had not seen the Guidelines nor has knowledge that the Clerk's office relied upon the Guidelines to prepare or place honorarium items on the Agenda. She did, however, indicate that if something is a policy or a resolution it is given a number and maintained in a physical file.

Bernard was present when IT visited the Clerk's office the morning of February 27th to retrieve information from Latimore's computer. Bernard relayed that Latimore complied with their request for the information, got up from her computer and allowed them access. When Gonzalez from IT came back later that day, Latimore was not in the office. Bernard called Latimore to let her know IT was collecting the computer and according to Bernard, Latimore told her to tell IT "no" they could not take the computer and to "lock her door." Bernard communicated to Gonzalez that Latimore said he could not take the computer. Bernard thereafter locked Latimore's office door as instructed by Latimore.

Bernard indicated that she was unaware of a policy regarding City Clerk attendance procedures. She stated that when Latimore is absent for a day or more, Latimore emails the Commissioners. She also stated that if Latimore is arriving late to work (the employee's hours are 8am to 5pm) she usually notifies the office or Bernard contacts her. Bernard also indicated that Latimore frequently arrives to work in the afternoons (on average 10 times per month). Bernard offered that Latimore frequently works late.

Sarah Johnston (Interview date: April 8, 2019 and April 17, 2019)

Johnston was hired with the City in June 2014 as Assistant City Attorney. In 2016, she was promoted to Deputy City Attorney. In July 2018, she was promoted to City Attorney.

Johnston indicated there is no "stated policy" for Charter Officers regarding attendance or reporting time off. Although she informs the Commission via email or text when she will be out for a day or more, arriving late or leaving early is guided by the "honor system."

Johnston stated that on Monday, February 18, 2019, Villard called her asking if there was any policy or resolution precluding awarding a Key to the City to a "long-time" Citizen of the community who did "wonderful" things for the community. According to Johnston, Villard explained that Latimore told her that only "dignitaries and heads of state" could be awarded a Key. Villard further told Johnston that Latimore said that Vallejo felt "too many

¹⁴ Following her interview, Bernard created a list of Key recipients. She could not locate information regarding receipt of a Key by DeFillipo. However, there is no reason to doubt that he received one. (Attachment Z).

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keys" had been awarded. Although not aware of the validity of Latimore's representations as expressed by Villard and knowing of only two Keys that had been awarded since her employment, Johnston was not surprised that Vallejo may have expressed that. The reason, she explained, was because Vallejo wanted many policies to be put in place where none existed, and although he had not discussed a policy for awarding a Key with her, he could have expressed that to someone else. However, she stated she did not recall the topic of awarding a Key and/or establishing a policy for awarding a Key being discussed at any Commission Meeting, Commission Conference or strategic planning session while Vallejo was Mayor or at any time before February 2019. She also stated that she would defer to the Clerk if a resolution to that effect existed since maintaining records is a function of the City Clerk's office. She offered and did email Villard policies from other cities in the event Villard wanted the City to create a policy on this subject. (See Attachment S).

The first time Johnston saw the Guidelines was February 18, 2019, when Latimore emailed the Guidelines to Villard, Scott and herself. According to Johnston, and as she expressed in a meeting with Scott and Villard the next day, the document looked to her like it was created the afternoon Latimore emailed it. Johnston stated the reasons why she believed this are as follows: the City Attorney was not copied on the document; the recipients of the document noted that it was to "Mayor and Council" rather than "Mayor and Commission," (which would have been appropriate in August 2017, the date on the Guidelines); the document presented with no date other than August 2017; and, as Assistant City Attorney in August 2017, she was not aware that the Commission had voted on and adopted the Guidelines as policy. In Johnston's legal opinion, therefore, the document, as written, was not binding on the Commission.

On February 26, 2019, Johnston was invited to a meeting by Villard with Scott and Latimore. Johnston stated that when Latimore was questioned about the authenticity of the document, Latimore was inconsistent in her responses. Johnston referenced six (6) instances wherein she felt Latimore was inconsistent and that Latimore's "story kept morphing" during the February 26th meeting: 1) Johnston recalled that Villard told her on February 18th that Latimore had told Villard there was a City resolution for awarding Keys to the City. However, in the February 26th meeting, Johnston heard Latimore deny she said that to Villard; 2) In explaining how the Guidelines were created, Latimore first stated Vallejo wanted a policy, then she changed her explanation and stated it was discussed with Sumek during strategic planning sessions, then she changed again and stated it was discussed during a Commission Conference or at a workshop; 3) Latimore stated the Guidelines were handed out at a strategic planning session, then she stated it was not handed out at a strategic planning session; 4) Latimore stated that she gave it to the Commissioners, then she stated she had not given it to the Commissioners; 5) Latimore stated that she does not make the decision who and who is not awarded a Key but then opined that it was appropriate that Pearson was not awarded a Key; and, 6) Latimore stated she made no changes to the document on February 19th, and simply opened it and emailed it to Villard, Scott and Johnston. However, Johnston learned later that evening of February 26th from Scott that Latimore admitted to making a change by highlighting "something" after Scott informed Latimore that the Metadata Report indicated a change had been made on February 19th.

Johnston stated that during the February 26th meeting Latimore had verbal outbursts when responding to Villard's questions. Johnston indicated that the meeting ended abruptly when Latimore stormed out of the room by slamming her hands on the desk, throwing open the door and stating something to the effect, "Ya'll" can get another clerk.

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Later that evening after learning of the contents of the Metadata Report, Johnston emailed Scott and Sosa seeking to “research the historical document information” of the Guidelines. (See Attachment X).

The following day Johnston was notified by Scott that Latimore refused to relinquish her computer to IT when IT attempted to collect it. Johnston and Scott decided not to go back to collect it that day.

Esmond Scott (Interview date: April 8, 2019 and April 17, 2019)

Scott was hired with the City in June 1997 and began working as an Intern in the Public Works Department. Between 1998 and 2016, he progressed to management positions in Public Services (formerly Public Works) including Assistant Director and Director. He left the City in August 2011 but returned in February 2013. In October 2016, he was appointed Assistant City Manager. In July 2018, he was appointed Interim City Manager. In October 2018, he was appointed City Manager.

Scott indicated there are no procedures for him to follow regarding his hours of work. Typically, he sends Commissioners an email if he is going to be absent. If running late or he must leave early he feels it is “not necessary” to notify the Commission. In all instances he always notifies his office.

Sometime in early to mid-February 2019, at a regular weekly meeting with Villard, Villard mentioned to Scott that she wanted to award a Key to the City to Pearson and that she had spoken to the Mayor on two occasions and he agreed to do so.¹⁵ Scott thereafter directed his staff to have a Key ready for the next Commission Meeting which would be February 19, 2019.¹⁶ On Friday, February 15, 2019, during a staff meeting, Greg Williams, Chief of Staff, mentioned giving a Proclamation to Pearson and Scott said to award her a Key based on Villard’s earlier conversation with him. On Saturday, February 16, 2019 Scott received a call from Villard to ensure that Pearson would be receiving a Key. Scott assured her that it would be done at the next Commission Meeting which was scheduled for February 19, 2019.

On February 18, 2019 at 12:42pm, Scott stated that he sent a text to staff, including Latimore, regarding Villard’s inquiry about awarding a Key to Pearson. (Attachment AA). Scott’s text message was as a reminder to staff that, “Villard wants a Proclamation and Key to the City for Ms. Pearson (check spelling) tomorrow.” Latimore responded, among other things, that “A key to the city is not appropriate” and that she would call Villard. In the text, Latimore further stated these types of requests for recognition should be “handled by (her) office” so that she could “properly direct them on appropriate and official protocols.” Although Scott had not attended any staff meetings, Commission Meetings, Commission Conferences or strategic planning sessions wherein the issue of a Key was discussed or voted on, and he was not aware of any policy in this regard, he deferred to Latimore and texted that he would “nix the key inquiry & wait on you on how to proceed.” He did, thereafter, call Latimore to make sure she was aware that the Mayor said it was “okay” to give Pearson a Key. In that call, Latimore assured Scott she would advise everyone on “protocol.” Later that evening, Latimore sent a text to the group that Pearson “will be given the Proclamation.”

¹⁵ In 2011 when he left City employment, Scott received a Key to the City. He was unaware of the name of other recipients who had received Keys during his employment with the City. He did, however, offer that maybe people who had been with the City for a long time like himself, and perhaps someone who retired but who had done a lot of work in beautification of the City, were the type of individuals to whom Keys would be awarded.

¹⁶ Keys to the City are kept and maintained in the Mayor and Commissioner’s office on the fourth floor of City Hall where the City Manager’s office is. The Chief of Staff reports to the City Manager and that office maintains the Keys.

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Notwithstanding his deferral to Latimore, Scott stated during his interview that his understanding was that the Mayor as the "ceremonial head of the Commission" is the one who has the "authority" to award a Key, not the Clerk. Scott further stated that the Clerk is the one who prepares the document to award the Key. The "call" to award the Key "is not hers" or the City Manager's. In his opinion, he felt Latimore "overstepped her authority." He attempted to do some research on his own by "googling other cities" but felt he would accept whatever the outcome would be.

On February 18, 2019, Scott was copied on a string of emails between Villard and Latimore which included the Guidelines. (See Attachments P-R). His initial reaction was that the Guidelines looked "weird" as there was no date except "August 2017" and no attachment establishing the procedures. He also stated it did not look "like an official document" and had "hanging pages at the end." He interpreted the language of the Guidelines placing the authority to award a Key with "Mayor and Council." He stated that the Clerk cannot just type up something and say this is the governing authority for the Commission without more. Scott offered that either a resolution or policy would be an authoritative document, not unapproved Guidelines.

Prior to the Commission Meeting on February 19th, Marketing & Special Events Specialist, Aja Dorsanvil, walked into the Commission Chambers Ante Room with a Key and handed it to Scott. Scott knew it was not for Pearson but directed Dorsainvil to put it on his desk in the Commission Chambers. During the ceremony awarding Johnathan Cyprien, the football player, a Proclamation, Scott asked his Chief of Staff, Williams, to ask Mayor DeFillipo if he wanted to give the Key to Cyprien. According to Scott, Williams did as he directed, came back, took the Key, handed it to the Mayor and the Mayor subsequently awarded the Key to Cyprien.

On February 26, 2019, Villard invited Johnston and Latimore to Scott's and Villard's regularly scheduled weekly meeting. The meeting was scheduled for 1:00pm and Latimore was running late. Scott indicated that once Latimore arrived, Villard began the meeting with questions to all three regarding who Charter Officers report to, their roles and how they report their absences. Villard then directed questions only to Latimore regarding Board appointments and the Guidelines. Scott's impression was that Latimore's recollection of what occurred between she and Villard regarding their earlier discussions about the Guidelines kept changing. He said Latimore stated that she never represented to Villard that it was a resolution she was relying upon, but rather a "working document" she presented to Mayor Vallejo. Scott observed that Latimore was upset and loud and getting louder as the meeting continued. He stated that the meeting ended with Latimore slamming her hands on the table where she was sitting before she stood up to leave stating something to the effect that she had never had her "integrity" questioned before. As she exited through the door she said, "Ya'll find yourself another clerk." He continued hearing her yell in the hallway outside his office.

After the meeting, Scott called Gil Sosa, Senior IT Manager, to see if he could determine when the Guidelines was created. He forwarded the email with the Guidelines to Sosa. (See Attachment W). Sosa brought the Metadata Report to Scott which noted five (5) revisions had been made; the last one on February 19th. Scott spoke with Latimore on the telephone from Johnston's office later that evening and suggested that Latimore make "amends" with Villard for the way she handled herself during the meeting. He also informed Latimore that the document had been revised on February 19th which was contrary to her earlier assertions that she made no changes. At that point Scott said something to the effect that "we may have to look into the computer." According to Scott, Latimore said she did not have a problem with that. She then mentioned for the first time that she did make a change by highlighting the date (August 2017) prior to sending it to Villard on February 19th.

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Additional emails were exchanged with Sosa and Johnston regarding obtaining more information about the document and its origins. (See Attachments X & Y).

The following morning, as a follow-up to their telephone conversation the night before, Scott sent Latimore a text stating that, "Gil will be coming down" to which said responded, "OK." Later in the day when Scott was at lunch he received a text from Latimore saying it was an emergency. (Attachment CC). They spoke, and she was in a "panic" that IT was trying to take her computer. Scott spoke with Johnston. Collectively Scott and Johnston decided not to collect the computer at that time. That evening Scott went to visit Latimore in her office and she claimed the computer contained "confidential documents." Scott stated during his interview that her comment about the confidential documents did "not make sense." As City Manager he controls the IT policies and according to him, the IT policy required that she turn over the computer when directed. He felt she refused to do so and her refusal, therefore, violated the IT policy.¹⁷

Greg Williams (Interview date: April 15, 2019)

Williams was hired by the City in March 2003 as a Utility Neighborhood Coordinator. In 2016, he was promoted to Public Affairs Coordinator. In the summer of 2016, he was promoted to Interim Chief of Staff. In December 2018, he was promoted to Chief of Staff. His immediate supervisor is Scott.

Williams experience with awarding a recipient a Key to the City was to await direction from his supervisor, the City Manager, and if approved by Scott, then Williams would contact the Clerk's office so the item could be put on the Commission Meeting Agenda. He is unaware of any policy, resolution, guideline or otherwise that he relies upon for this understanding. He also indicated he never saw the Guidelines until Latimore showed it to him sometime after the February 19th Commission Meeting. He stated that Latimore showed it to him explaining that Villard thought the document was not authentic. Williams commented to this Investigator that to him it looked authentic.

The week prior to the February 19th Commission Meeting, Williams learned from Scott that Villard brought to Scott's attention that Villard spoke with the Mayor and a Key was going to be awarded to Pearson. Williams stated that he believed his employee, Dorsainvil, left the Key and other items for the Commission Meeting award presentations for February 19th on a desk in the Chief of Staff office that Williams used to occupy while Interim Chief of Staff. He believed she must have left those items on the desk on Wednesday prior to the Commission Meeting because she was not at work Thursday or Friday.

On Monday, February 18, 2019, after the weekend, Williams was a member to a group text wherein Scott was reminding everyone to have things prepared to award the Key to Pearson. He then saw Latimore's response indicating the Key would not be awarded to Pearson and Scott's response to "nix the Key." (See Attachment AA).

When Dorsainvil returned to work on Tuesday, February 19th, it was Williams' understanding that Dorsainvil was not privy to the text message, and in the normal course of performing her duties in preparing for the Commission Meeting that evening, she retrieved the Key from Williams' old desk where she knew all award items would be.

¹⁷ Scott indicated that he made his own hand-written notes contemporaneously with the events from February 16 through March 5, 2019. These notes were provided to this Investigator after he was interviewed. (Attachment BB).

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During the award portion that evening, Scott called Williams over to Scott's area of the dais and asked Williams to ask the Mayor if he wanted to give the Key to Cyprien. Williams did as Scott directed. The Mayor said yes, and Williams retrieved the Key from Scott's dais and handed it to the Mayor. The Mayor in turn presented the Key to Cyprien.

On February 26, 2019, Williams was interviewing a candidate for an Aide position to the Mayor and Commissioners with Commissioner Florimond. Williams explained that he stepped out of the interview to attend another meeting and on his way back into the interview room, he saw Latimore come from the area of Scott's office. She approached him and in a loud voice said something to the effect that, "It would have been nice if you guys had told me you were going to give a Key to Cyprien." He could tell she was upset, and she kept banging the elevator button to go down even though it was already lit. Williams indicated that he told her "we didn't know" that would happen. According to Williams, Florimond came out of the interview room when he heard the commotion and Williams believed Florimond tried to calm Latimore down by escorting her into and down the elevator. Williams went back into the interview room and could tell by the candidate's expression that she heard what happened outside the door. A few days later, Williams indicated that Latimore apologized for her outburst toward him and explained to him that she acted in that manner because she felt her "integrity" had been called into question.

Alix Desulme (Interview date: April 15, 2019)

Dr. Desulme is a Councilmember for the City of North Miami. He has known Latimore for many years as he and one of Latimore's sons were friends. He has also known Villard for many years through her work in the community. He considers himself friends with both.

After Villard was sworn in as Commissioner, she called Desulme to ask if his City of North Miami would issue a Proclamation to a resident. He agreed. She called back the next day and asked if Commissioners can award a Key to the City to residents. He advised her to check on her City Charter or consult with her City Attorney. He did offer that in his City of North Miami he believed it was written in a document that conferred the authority to the Mayor. A few weeks after that, Villard called him back on another matter and mentioned that the Clerk of her City, i.e. Latimore, had denied Villard the opportunity to award a Key to a resident and that when Villard asked Latimore for the procedure in writing, Villard felt she was not getting the right answer from Latimore. Desulme explained to Villard that as a Commissioner she can set the policy. Based on his knowledge of Latimore, Villard's account of Latimore was inconsistent with her known behavior to him.

About one week later, Latimore called Desulme and explained what occurred with Villard and included that she, Latimore, had worked on the procedure for awarding a Key with Vallejo and was continuing to work on it with DeFillipo. She said she created the document in either 2015 or 2016, changed it in 2017, and that it was her document, so she could change it. Specifically, according to Desulme, Latimore referred to the document as a "working document." Desulme explained to Latimore that a policy like that cannot exist unless voted upon. According to Desulme, Latimore stated that she believed she was doing what she thought was correct and was "packing up." At that point Desulme thought he could mediate the matter since he knew both. He made that offer. Both accepted.

On March 8, 2019, Desulme scheduled an 11:00am meeting for the three of them. The meeting was scheduled in Desulme's office. Desulme indicated Latimore was running late. Once the meeting started, both Villard and

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Latimore expressed their views of the circumstances and ended with Villard saying she thought Latimore should resign and Latimore indicating that if she did she would not get her severance. Villard indicated she had to go to another meeting and left the office. Desulme and Latimore continued to talk.¹⁸ Latimore continued to state that the document was her “working document” and that DeFillipo and she were working on another document. The issue of IT coming to collect her computer came up and she said she could not turn it over because she was not present when they came to collect it. Desulme felt that was not a reason and asked why she did not relinquish it. According to Desulme, Latimore then said she had “confidential documents” like “FDLE reports” in the computer. He explained the computer is City property and she had to turn it over.

Desulme has not had any interaction or conversation with either since the March meeting.¹⁹

Aja Dorsainvil (Interview date: April 15, 2019)

Dorsainvil was hired with the City in August 2015. She began as the Marketing Coordinator with Parks and Recreation. In 2016, she was promoted to the Marketing and Special Events Supervisor. In 2017, she transferred to Public Affairs (which is the Chief of Staff and Public Affairs office) and has held her current position of Marketing and Special Events Specialist since then. Her immediate supervisor is Chief of Staff Greg Williams.

Dorsainvil indicated that she is unaware of any process used for issuing Keys and has never seen a policy or a document stating the process. She did, however, offer that the Keys are ordered and maintained by the Chief of Staff/Public Affairs office. The only process she knows about awarding Proclamations is that the Clerk’s office writes the document to be awarded to the recipient, her office prints the recognition documents and leaves them for Dorsainvil to transmit to the Clerk on the day of the Commission Meeting.

On Tuesday, February 19th, after being out of the office since the prior Wednesday, Dorsainvil was told the recognition documents for the Commission Meeting were left on Williams’ former desk he used when Interim Chief of Staff. She picked up the items. She took all items to the Commission Chambers Ante room. She handed the Key to Scott and placed all recognition documents on the dais where Latimore sits.

The following day, Monica Vida, the former Graphic Design Assistant, indicated to Dorsainvil she was surprised and in “shock” Pearson did not get the Key. According to Dorsainvil, Monica told her that she, Monica, took the Key out on Friday, placed it on the desk to be taken to the Commission Meeting for Pearson, not Cyprien.

Dorsainvil also relayed that on February 26, 2019, while working in her office on the fourth floor of City Hall about 40 feet from the elevator, she heard Latimore yelling something to the effect, “I have never...” Shortly thereafter Dorsainvil got up to retrieve a document from the printer which was kept in another office. She saw Williams in that office and mentioned to him that she heard Latimore yelling. The two had no further discussion on the matter.

¹⁸ Desulme said that Latimore stated to him after Villard left that she, Latimore, should get an attorney.

¹⁹ Desulme did mention that a Blogger, Stephanie Kinzel, called him after the meeting reiterating Latimore’s side of the story. Without offering any information he advised Kinzel to be careful to arriving at a conclusion before hearing the whole story.

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Lyle Sumek (Interview date: April 17, 2019)

Sumek contracted with the City to lead the Commission strategic planning sessions in 2014 and in 2016.²⁰ During the 2014 and 2016 sessions, Sumek stated that the topic of honorarium and awarding Keys to recipients never came up. He was sure that at no time he received or reviewed documentation regarding the types of honorarium that could be presented. He added that in the 40 years since he has been leading these types of sessions, awarding Keys to recipients was never a topic of discussion with any Client.

He believes that during the sessions they may have discussed other forms of recognition for City Employees and awards given to the City itself. He believed that the discussions may have included the point in time during which the Commission Meeting recognitions would be presented.²¹

Nicholas Williams (Interview date: April 17, 2019)

Williams began as an Intern with the City Manager's office around April 2016. In the fall of 2017 he secured a position as Public Affairs Aide working with the then Chief of Staff Nicole Gomez. In November 2018, Williams transferred to Public Works and is currently working as the Public Works Aide.

In his position while working with the former Chief of Staff, one of his functions was to monitor and order supplies for the office. This included the Keys to the City. The Keys were stored in the Mayor and Commissioners office area. He never saw nor was aware of any procedures or protocols for awarding Keys. His understanding for that decision is that it would come from the Mayor and Commissioners, not the Clerk's office. He also never maintained nor was aware of anyone maintaining an inventory of who was a recipient. He only recalled one person receiving a Key while working in the City Manager's and Chief of Staff's office. The individual he recalled was an artist with the last name of Britto who was awarded the Key during the City's 90th Anniversary celebration.

George Vallejo (Interview date: April 23, 2019)

Vallejo served as Mayor from May 2011 through April 2018.

Vallejo indicated that the decision to issue a Key to the City falls under the direction of the Commission. He believes that as the "titular head of the government" he as Mayor could award a Key and that he would not need a policy outlining his authority to do so. He felt the decision could rest with him as Mayor. However, he felt there needed to be a "better" system in place for awarding recognitions to individuals. In his opinion he felt there was a lot of "political gamesmanship" when people wanted to give recognition to individuals in the community, especially since "too many Proclamations" were being awarded. And because he felt too many Proclamations were being awarded, and it was taking up too much time during the Commission Meetings, around 2016 he met with the City Attorney, the City Manager and the City Clerk, who was Latimore at the time, to set up procedures and a policy for the process.

²⁰ The City and Sumek have recently entered into a new contract.

²¹ This investigator reviewed the video and planning documents of the two Sumek 2016 strategic planning sessions. One session was March 11, 2016 and the other was April 8, 2016. Neither of the two sessions nor the planning documents referenced awarding Keys. No documents were presented during this investigation that contradicted that finding. During the April 8th session, former City Attorney Jose Smith made a point of informing the group that "discussion" at these sessions is not "action" and that for "action" to occur on a discussion item, the item would have to be brought before the Commission for approval.

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Vallejo recalled seeing a 3/2/16 Memorandum regarding Proclamations and stated that it was highly probable that the Memorandum was a result of that meeting. (Attachment EE). He also specifically recalled seeing something like the Guidelines at some point, although not definitive as to when, but indicated that he did not go back and forth with Latimore developing or creating the content. Vallejo also did not recall seeing any procedures that accompanied the Guidelines. As he recalls, in August 2017, he wanted to put on the Agenda a discussion item regarding the process and length of time during the Commission meetings for award presentations, not the issue of what could be awarded. However, due to a personal issue, he was unable to attend the Commission meeting and, therefore, he believed the Commission never discussed that item. He was certain, however, that the issue of awarding individuals, whether by way of a Key or a Proclamation, was never brought up for discussion with the Commission nor was the topic put into a resolution and voted upon by the Commission.

Vallejo expressed that awarding a Key is a high honor and he defined “dignitaries” as elected officials. He recalled some, but not all of the recipients during his term of office and thought he had given a Key to a Mayor from Haiti and the Prime Minister from Turks & Caicos.²²

Pamela Latimore (Interview date: April 23, 2019)

Latimore appeared for her interview with her attorney, Michael A. Pizzi Jr.

Latimore stated that at a staff meeting during the week prior to the February 19, 2019 Commission Meeting, she learned that Chief of Staff Williams was preparing to have a Key ready to award to Pearson based upon Villard’s direction. Latimore stated that she told Williams, “that was not going to happen.” Latimore then stated that over the weekend, Saturday or Sunday, she spoke on the telephone with Villard and told Villard the reason Pearson would not be awarded a Key was because Latimore follows the guidelines for awarding Keys and Pearson is not a “head of state.” She did, however, tell Villard that Pearson would remain on the Agenda as she was already scheduled for recognition (an Honor) for Black History Month. According to Latimore, Villard asked for the guidelines in writing. Latimore indicated to Villard she would send them to her when next in the office which would be Tuesday as Monday, February 18th was a holiday. Latimore explained in her interview with this Investigator that the reason she did not access her work documents from her home computer was because she felt the network connection would not work as has been the case in the past and, therefore, did not attempt to do so.

Latimore recalled being part of a group text (Villard was not part of the group) on Monday, February 18th, wherein Scott reminded his staff to have the Key for Pearson for the upcoming Commission Meeting. She acknowledged that she responded to that text that it was not appropriate to award a Key to Pearson and that she would speak with Villard. Latimore indicated during her interview with this Investigator that she only had one telephone conversation with Villard so it likely was on Monday, not over the weekend, as she had stated earlier. Latimore recalled that many hours later that same day she texted the group that Pearson would receive a Proclamation in addition to the Honor. She explained she decided to do that since Pearson was not going to receive a Key. Latimore also explained that the February 19th Agenda for the Commission Conference did not reflect Pearson receiving a Proclamation because the Agenda had already been prepared on Wednesday, February 13th and the decision to issue her the Proclamation was made by Latimore on Monday, February 18th.

²² Neither of the individuals mentioned by Vallejo are on the Key Recipient List. (See Attachment Z).

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Latimore explained that in that one telephone conversation she had with Villard on February 18th she was irritated with the situation because she had previously told staff mid-week last week that Pearson would not be receiving a Key and felt this situation had already been taken care of. However, notwithstanding being irritated with the situation, she was not irritated with Villard and acknowledged that although she may not have been “meek” and was “firm” when speaking with Villard, at no time during the telephone conversation was she loud or disrespectful towards Villard.

On Tuesday, February 19th, Latimore indicated she arrived late to work due to car trouble. After she arrived, she opened the Guidelines she referenced in her call with Villard and emailed it to Villard, Scott and Johnston. She stated that this document was her “working document.” Latimore stated that she made no changes to the Guidelines prior to attaching and sending the email to Villard.

Latimore stated that the creation of the Guidelines began and ended with her. In explaining the creation, Latimore discussed events that occurred between 2015 and 2017.

In 2015, a decision was made that the Clerk’s office would begin vetting and processing Proclamations and other recognitions. According to Latimore, this did not include issuance of Keys. Vetting for and awarding a Key remained with the Chief of Staff’s office. Latimore indicated that the process was decided verbally, and nothing was reduced to writing.

In 2016, Latimore stated that recognition presentations were routinely placed on the Mayor’s Agenda by the Clerk’s office for Commission Meetings, but that Vallejo wanted guidelines established because he was upset that the meetings were taking too long and too many people were being awarded recognitions. Therefore, Vallejo directed her and former City Attorney Smith to draft a resolution regarding honorarium. In response to that direction, on February 23, 2016, Latimore emailed a document titled *Protocol Policy for Honorary Documents* to then Assistant City Attorney Dottie Joseph. (Attachment EE). The email states in pertinent part, “Dottie, this is the document Jose referenced.” Latimore explained that the content of the list was taken verbatim from the Miami-Dade County web site. On February 26, 2016, Latimore again emailed the list to Joseph in response to Joseph’s request to review the Memorandum on Proclamations prepared by the City Attorney’s office. (Attachment FF).²³ Without commenting on the document sent by Joseph, Latimore emailed the same list titled *Protocol Policy for Honorary Documents* with some changes. (See Attachment FF). According to Latimore the Memorandum on Proclamations was distributed to the Mayor and Council.²⁴ No action on either the *Protocol Policy for Honorary Documents* prepared by Latimore or the Memorandum on Proclamations prepared by the City Attorney’s office was taken by the Commission.

In August 2017, Vallejo expressed to Latimore that he wanted to add as a topic for discussion on the Agenda for a Commission Meeting the issue of “decorum and protocol” for award presentations. Latimore stated that she had text messages with Vallejo that support that he gave her this direction.²⁵ Latimore stated during her

²³ Latimore did not provide a copy of the attachment. It was found through forensic analysis explained below.

²⁴ It is noted that the Proclamation Memorandum does not include any language from Latimore’s *Protocol Policy for Honorary Documents* she claimed she took from the Miami-Dade County web site.

²⁵ After her interview, Latimore presented excerpts of text messages with Vallejo from June 20, 2017 – August 17, 2017. (Attachment GG). A review of those text messages shows that the length of time for presentations was discussed, including that the former Chief of Staff agreed to help with presentations. The text messages also show

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interview that the discussion item Vallejo was referring to was for "protocol and decorum" which included honorarium. Latimore placed the item on the Agenda for discussion and prepared the Guidelines in the form it exists today in preparation for that discussion item. Latimore explained this was the reason no specific date other than August 2017 was on the face of the Guidelines. She explained that to create the document she used the template from something else and cut and pasted the contents onto the template. This explained why there were 2 blank pages following the content. She stated that she never told Villard she went back and forth with Vallejo on the language. Latimore also indicated that this item was placed on the Agenda for discussion but for personal reasons Vallejo was unable to attend the meeting, and the item was never discussed by the Commissioners.

After August 2017, neither Latimore's August 2017 Guidelines nor the City Attorney's 2016 Memorandum were voted upon or adopted by the Commission. Latimore did state that she has been in discussions with DeFillipo regarding establishing policies for several items including awarding honorarium. To date nothing has been created or voted upon by the current Commission.

Latimore also indicated that during her employment she had not been involved in vetting recipients who had been awarded Keys from 2011 through the present. Further, going into the February 19th Commission Conference, Latimore was unaware that Cyprien would be receiving a Key as no one discussed or informed her that would occur. She felt everyone knew of the Pearson "situation" and the fact that Cyprien received a Key made her look like a "liar." She stated that she told Villard that if she had wanted a policy on this issue all she had to do was direct her to put it on the Agenda as a discussion item.

On February 26, 2016, Latimore was asked to attend a meeting in Scott's office. She was unaware of the topic and unaware that Villard and Johnston would be present. She was asked several questions about many issues related to attendance, Board appointments and the Guidelines. She tried her best to explain how the Guidelines were created including that she did not make any changes or create them for the first time on February 19th when they were emailed to Villard. She felt Villard was impugning her integrity and was unnecessarily accusing her of criminal misconduct by stating it is a "felony" to falsify a document. Latimore acknowledged that she was upset and left the meeting. She saw Williams in the hallway on her way out and did yell at him. She stated that she has since apologized to him. Latimore acknowledged that the evening of February 26th Scott suggested she make amends with Villard. Latimore expressed that she could not do that because Villard had accused her of having committed a "felony." However, in the March 2019 session with Desulme, Latimore stated that she did apologize to Villard.

Latimore denied most of the claims made by Villard in the Chronology and the accusations Villard uttered at the February 26th meeting. Specifically, Latimore stated as follows: she was never asked to have a meeting on February 26th; she never stated to Villard in the telephone conversation before the February 19th Commission Meeting that the document she was placing reliance on was a resolution; she denies that she told Villard that the former Mayor said "too many keys" had been awarded; she never represented that this issue was decided after a workshop or strategic planning sessions or that she gave the Guidelines to Sumek; she never told Villard that it was she, Latimore, who had the authority to decide who and who would not be awarded a Key; she never

that Vallejo wanted to put an item (without specifics) for discussion on the Agenda but was not sure he would be able to attend the meeting for personal reasons.

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said Vallejo came to her office to discuss the Guidelines nor did she hand-deliver the Guidelines to him; she was not angry at being questioned by Villard on February 26th, she was angry because Villard stated that Latimore should be investigated; she denies that she yelled at Villard; Villard never stated in the February 26th meeting that Latimore's story kept changing; and, she did not falsify anything or create a document on February 19th to prove her point.

In the March 8, 2019 session with Desulme, in addition to the same accusations made by Villard in the February 26th meeting, Latimore learned for the first time that Villard felt the Guidelines contained the City Seal and that any alteration to it would be tantamount to altering an official document. Latimore explained to Villard that the City Logo on the City Clerk's letterhead was not the City Seal. It appeared to Latimore that all Villard seemed to want was Latimore's resignation. Latimore indicated she would not resign for if she did she would forfeit her severance per her contract with the City. The meeting ended with no resolution.

Latimore also stated that at no time did she refuse to relinquish her computer on February 27th. She offered two reasons why it was not taken. First, she was not in the office when IT came to collect the computer, and no one told her that it would be taken or the reason for it being taken. Second, as the City Clerk, she maintains confidential documents in her computer that is not subject to public disclosure.

Latimore stated that she has been provided no guidance or stated policy regarding reporting her attendance to the Commission. Without being directed to follow any verbal or written procedure, she does her best to email or text the Mayor and Commissioners when she will be absent for one or more days and she always notifies her office when she is running late or when she is leaving early. Her hours vary depending on her work load which does entail staying very late in the evening at times independent of Commission Meetings.

At the end of the interview, Pizzi requested that Latimore be able to submit a written statement along with documents she referenced during her interview. The record was held open pending receipt of the documents. The day following her interview, Latimore submitted the email chain with Joseph (See Attachments EE & FF) and the text messages (Attachment GG). Pizzi submitted a written statement. (Attachment HH).

Jake Stone (Interview date: May 6, 2019)

Stone is a Senior Managing Consultant/Forensic Examiner for Capsicum Group. On April 15, 2019, Stone retrieved from Sosa's office two hard drives taken from Latimore's computer. One hard drive was currently being used, and an older that sat under her desk. Stone was asked to analyze the Metadata Report, to also determine if other copies or variations of the Guidelines existed and if deleted files could be detected. His findings were placed into a Computer Forensics Report (hereinafter "the Forensics Report" or "Forensics Report"). (See Attachment Tb).²⁶

Stone found that the name of the file for the Guidelines was titled Proclamation Honorarium.com created by Latimore on 2/26/16 at 2:37pm. No other documents with this file name were found. He confirmed that the

²⁶The Forensic Report is an 83-page document. Pages 15-83 are Exhibits 7 and 8 which is a list of deleted emails unrelated to the issues in this investigation. Those pages are not attached to this Investigation Report but are available.

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Guidelines were edited on Tuesday, February 19th. He could not determine how many edits were made to this file on February 19th, what time the edits were made or what content was edited.

Exhibit 2 to Stone's Report indicates only one other similar version of the Guidelines was found in a file titled Proclamation Protocols.doc created by Latimore on 6/6/2014.

On the date of his interview, Stone was asked to review two emails, with attachments, provided to this Investigator by Latimore following her interview. (See Attachments EE & FF). He was unable to locate the two emails on Latimore's computer as Latimore's Inbox was completely empty and all emails had been hard deleted.²⁷ He explained that some emails were recoverable, and some were not. For example, he was able to recover Villard's 10:31am email to Latimore on February 19th (See Attachment P). However, he was unable to recover the two emails, with attachments, provided by Latimore post-interview. Accordingly, additional emails could have existed with other versions of the Guidelines, but he was unable to recover them.

He was then asked by this Investigator to look in the file name Discussion Points for Meeting Rules.doc which was the file that referenced the attachment emailed to Latimore by Joseph on 2/23/16 at 12:20. He found that the document Latimore emailed Joseph on that date no longer existed in that file but found in its place another document. That document was an undated two-page document titled *Meeting Procedures/Points for Discussion*, with a designation "Submitted by: Mayor Vallejo" at the bottom of each page. He was asked by this Investigator to run a Metadata Report on that document. The Metadata Report for that document indicates that the document was created on the same date and at the same time Latimore emailed Joseph the document she claimed Jose had referred to on 2/23/16 at 12:20pm. (Attachment IIa-b).²⁸

VI. Findings

A. Whether or not Pamela Latimore inappropriately created and/or altered a public record?

1. Alteration

- The Guidelines were created by Latimore, a City employee on a City computer through the City computer network system and maintained in a My Documents file found on Latimore's desk top. Accordingly, the Guidelines are a public document pursuant to Chapter 119 of Florida Statutes.
- The Guidelines concerning the process, procedure, or protocol referencing the issuance of honorariums (including Keys or Proclamations) were never voted upon or adopted by the Commission during Latimore's employment with the City.
- Therefore, the Guidelines may be modified, changed or altered by Latimore or any other person who had access to the document. Latimore acknowledged that Bernard may have done the same.
- Modifications, changes or alterations made to the Guidelines by Latimore or any other City employee were not inappropriate. The document was in fact a "working document" created by Latimore for the purpose of developing a future resolution and/or policy to be reviewed and voted upon for adoption by the Commission.

²⁷ Stone commented that finding all emails hard deleted is unusual and could be construed to be a deliberate act. In his experience he has found this is done when someone has something to "cover up."

²⁸ The document does not reference anything relating to eligibility to receive a Key or authorization to issue a Key.

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- The Guidelines remained a Word document, were never finalized, the City Seal was never affixed, and were never codified as an official record.
- Accordingly, any changes to the Guidelines would not constitute an alteration of a public record.

2. Creation:

a. Four versions of the Guidelines were found in Latimore's computer.

- The **first version** of the Guidelines found in Latimore's documents is titled *Protocol Policy for Honorary Documents*, created on 6/6/14 and saved to Latimore's "My Documents" in a file named Proclamation Protocols.doc. This is Exhibit 2 to the Forensics Report. (See Attachment Tb).²⁹
- There is no information in the record to demonstrate that the first version was finalized or voted upon and adopted by the Commission. The Forensic Report shows that there was no activity on this file between 6/6/14 through 11/27/18. However, as shown on page 5 of the Forensic Report the document was modified on 11/28/18. There is no other information available to ascertain what modification was made on 11/28/18 or if the document was emailed at that time.
- In 2016, Mayor Vallejo met with former City Attorney Jose Smith, former City Manager Ana Garcia and City Clerk Pamela Latimore in a non-public meeting and discussed establishing a procedure and policy for awarding Proclamations. Vallejo was frustrated that too many Proclamations had been awarded and the process to award the Proclamations was taking up too much time during Commission Meetings.
- Following that meeting, on 2/23/16 at 12:20pm, Latimore sent an email to former Assistant City Attorney Dottie Joseph; the email stated in pertinent part, "Dottie, this is the document that Jose referenced." (See Attachment EE). The attachment was a **second version** of the Guidelines.
- The second version differs from the first version as follows:
 - *File was saved under the file name Discussion Points for Meeting Rules.doc
 - **Protocol Policy for Honorary Documents* is highlighted and moved to the upper left corner of the one-page document
 - *List of protocol documents or awards is highlighted (except for Proclamation)
 - *An instruction/direction paragraph following the types of protocol documents or awards is broken into 4 paragraphs
 - *The 4th and 5th lines of the paragraph were reduced to a one sentence 2nd paragraph
- Language for *Key to the City* from the first version to the second version is the same and states, "The key extends an official welcome from Mayor and Council to a proven leader."
- Then on 2/26/16 at 2:22pm, Joseph emailed Latimore with an attached document. (See Attachment EE). The email purports to refer to a draft of the Memorandum on Proclamations prepared by the City Attorney's office.³⁰ Joseph asked Latimore for comment. Without offering comment on the draft Memorandum, at 2:45pm Latimore attached a **third version** of the Guidelines and wrote, "I have tried to follow in determining what honorarium should be presented. This has not been strictly adhered to since they choose not to adopt a formal policy." (See Attachment FF). The third version of the Guidelines was not incorporated into that Memorandum. (See Attachment DD).
- The third version differs from the second version as follows:

²⁹ This document was found through Forensic Analysis as an attachment to an email. (See Exhibit 3 of The Forensics Report).

³⁰The Forensic Examiner was unable to recover any attachment, however, the final copy of the 3/2/16 Memorandum on Proclamations was located by Johnston. (See Attachment DD).

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*File name was saved under file name Proclamations Protocols.doc (like the first version)

*List of protocol documents and awards is not highlighted (like the first version)

- Language for *Key to the City* from the second version to the third version is the same and states, “The key extends an official welcome from Mayor and Council to a proven leader.”
- The **fourth version** (and final version) of the Guidelines was submitted to Villard by Latimore via email on 2/19/19. (See Attachment R).
- The fourth version differs from the third version as follows:
 - *File name was saved under the file name Proclamation Honorarium.doc. (no other version bears this file name)
 - *Content is typed on City Clerk letterhead
 - *Memorandum format (but does not state Memorandum)
 - *Identifies designation with content for To: From: Date:
 - **Protocol Policy for Honorary Documents* was deleted
 - *Identifies the subject as *RE: Guidelines for Protocol Services/Documents*
 - *List of protocol documents and awards is highlighted (like the second version)
 - *Language for the *Key to the City* differs from the three prior versions and states, “The key extends an official welcome from Mayor and Council to a proven leader. (*Dignitaries, Heads of State, etc.*)” (emphasis added).
 - *Instruction/direction paragraph is deleted
 - *3-page document with page 1 containing content, page 2 blank and page 3 on letter head with no content

b. Content is inconsistent with Latimore’s representations for the source of the content.

- As of February 2019, to date, Latimore has maintained that the content of the Guidelines came directly from the Miami-Dade County Office of Protocol and the City of Miami Office of Protocol. Moreover, not only did she say she took the content from these municipalities, she stated that she cut and pasted the content from the Miami-Dade County web site. Her representations appear to be false.
- Exhibit 1 to the Forensic Report is a file named Miami.doc created by Latimore on 6/6/14. (See Attachment Tb, page 4). On the face of the document the content indicates it is from the Miami-Dade County Mayor’s Office. Although this is consistent with Latimore’s representation that her working document was based off a Miami-Dade County document, the language for Key recipients in Exhibit 1 states, “The Key to the County extends an official welcome and also recognizes proven leaders whose contributions have enriched our society.” This is not the same language in versions one through four of the Guidelines.
- From the plain language of the Miami-Dade County document, dignitary or heads of state does not appear to be the criterion for eligibility to receive a Key.
- The Forensic Examiner did not uncover a document from the City of Miami which may or may not have existed in that file at some point in time. However, a review of the current web site for the City of Miami Office of Protocol does not indicate any criteria for awarding a Key to the City; in fact, awarding a Key to the City does not appear to be one of the available awards to request by a City Commissioner or a City Employee.

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- Therefore, Latimore could not have simply cut and pasted the content of one of these municipalities into her working document for the Guidelines. If something else existed, it was found in her available electronic file or was not presented during this Investigation.

c. Language does not support Latimore's representations that only elected officials are eligible for a Key.

- It is undisputed that Latimore represented to Scott, City staff and Villard, that Pearson was not entitled to a Key to the City because she was not a "dignitary" and further that Latimore could unilaterally determine that Pearson should be awarded a Proclamation instead.
- Latimore explained that she relied upon the definition for the word dignitary to be an elected-official. Vallejo offered the same definition. Accepting that as the definition as the one used by City officials, then the insertion of the word "dignitary" on a document called Guidelines could potentially justify precluding awarding a Key to one who was not an elected official, like Pearson. However, this premise is false because the language is not limited to dignitaries or heads of state. Moreover, precedent in the City is otherwise.
- The express language of the Guidelines states that a Key to the City can be extended "to a proven leader." The word "Dignitaries" and "Heads of State" appears in a parenthetical in the fourth version of the Guidelines and is noted as only an example of "a proven leader." The word "dignitary" or "heads of state" therefore, is not dispositive of who and who cannot receive a Key.
- To be clear, the City has not adopted, by resolution or policy, a definition for "proven leader" or "dignitary" or "heads of state." Accordingly, there is no Commission approved determination that a proven leader can only be a dignitary/head of state. By operation of the language in her own working document, Latimore's representation that only dignitaries/heads of state can be awarded a Key is incorrect.
- There is no information in the record offered by Latimore, by any individual interviewed or through any documentary evidence that explains how the parenthetical with the word dignitary or head of state appeared in the fourth version of the Guidelines.
- City precedent for awarding Keys also does not support her representation. Although the City does not keep a formal record of who has been issued a Key, the record in this Investigation shows through research of past Agenda items (and knowledge that DeFillipo received a Key) almost all recipients are not elected-officials. The list of recipients includes employees, artists, developers, authors, sports figures and one elected official, i.e. DeFillipo. (See Attachment Z).
- In fact, the same night Villard wished to issue a Key to Pearson, but was denied by Latimore, DeFilippo made an on-the-spot decision to issue a Key to a football player who is not an elected official.
- There is no indication in the record that insertion of the parenthetical with the word "Dignitaries" and "Heads of State" was based upon Commission direction including direction from Vallejo. Indeed, the first representation in the record that Keys are given for dignitaries was Latimore's statement to Villard during their telephone conversation on February 18th.

d. No explanation for insertion of the words "Dignitaries" or "Heads of State"

- There is no explanation from Latimore, any individual interviewed or from documents how the word "Dignitaries" or "Heads of State" found its way into the fourth version of the Guidelines.
- Similarly, if proven leader was only supposed to mean dignitary/head of state and dignitary/head of state was only supposed to mean elected official, perhaps when writing these Guidelines Latimore should have

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just used the word, *elected officials* if that truly was the intent. The fact that it was not used is evidence that it was not the intent at all.

- Latimore represented in the February 26th meeting that she made no changes to the document before emailing it. She specifically stated that she opened it and emailed it. This representation was false. Only when confronted by Scott the evening of February 26th informing her that he had a report that showed revisions had been made, did Latimore state that she made a revision by highlighting some content. Desulme stated she told him she highlighted the date. When she met with this Investigator she could not clearly identify what content she highlighted and why.
- The Forensic Report not only confirms that at least one change was made on February 19th, but that the document was opened for over 6 minutes before it was saved and emailed to Villard.
- Based on the above, a strong inference is drawn that more than just highlighting the date was made. Therefore, if found to be true, Latimore would have inappropriately created a document on 2/19/19 to justify her assertion to Villard in the February 18th telephone conversation that because Pearson was not an elected official she could not receive a Key.

e. An inference exists that the Guidelines were not prepared for the 8/15/17 Commission Meeting.

- In June 2017, Vallejo and Latimore exchanged text messages about limiting the time for presentations at Commission Meetings. (See Attachment GG). The discussion did not concern the topic of who was eligible to receive a Key to the City, who had the authority to vet a recipient for eligibility to receive a Key to the City or adopting a policy or resolution on issuing Keys. In fact, Vallejo indicated that was not his concern.
- On August 14, 2017, Vallejo and Latimore exchanged text messages regarding an item Vallejo wanted to discuss at an upcoming Commission Meeting. His text message is not specific as to what the item was. (See Attachment GG).
- Under the Mayor's Discussion for the 8/15/17 City Commission Meeting Agenda, there is a topic listed "Commission Meeting Procedures & Rules of Debate and Board Liaison Service." (Attachment JJ). The item does not reference nor imply that it included a discussion on the eligibility for or authorization of Keys. In addition, there is only one document found in Latimore's computer files by the Forensic Examiner that somewhat mirrors this topic. It is the 2-page document titled *Meeting Procedures/Points for Discussion* and states at the bottom Submitted by: Mayor Vallejo. (See Attachment IIa). This document does not reference anything related to the eligibility for or authorization of Keys. The Metadata Report shows that its creation was on the same date and time that Latimore sent the second version of the Guidelines to Joseph 2/26/16 12:20pm. (See Attachment IIb). It is more likely than not that the document as written was the subject for discussion; not the topic of the Guidelines. This document was last printed on 9/18/17 and edited on 10/24/17, however, there is no way of knowing what the content was before, except two paragraphs that are in red may be newly added language and may account for the 10/24/17 date stamp that something was changed. (See Attachment IIb).
- In addition, Vallejo confirmed that he did not go back and forth on content or language with Latimore on the Guidelines at any time, as she claimed he did.
- Vallejo was unable to attend the 8/15/17 Commission Meeting. Therefore, the Mayor's Discussion item was not addressed.
- Although it is clear that Vallejo wanted to discuss meeting procedures and issues relating to meeting rules, it is equally clear that awarding a Key was not a topic for discussion.

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- Although it is possible that Latimore prepared the document in furtherance of her own desire to present it to the Commission on 8/15/17, she did not assert this point.
- It is reasonable that Villard, Scott and Johnston questioned its authenticity. The Guidelines in the form presented by Latimore appeared rushed and not Commission-worthy.
- Although it has the date of August 2017, it was essentially undated as Latimore knew the date of the Commission Meeting and no day date is on the document. The instructions and directions that could have outlined the procedures are non-existent. The spacing is off in the top portion and there are two blank pages (perhaps these are the 2-pages of missing procedures that were hurriedly deleted). Unlike the 2016 Memorandum on Proclamations the Guidelines is not prepared in conjunction with the City Attorney's office, contains no citations or references does not state it was produced as a proposal for consideration by the Commission.
- It is merely a document typed up by Latimore with no further action.

f. An inference exists that the Memo form was created 11/28/18 and not in August 2017.

- Exhibit 2 of the Forensic Report references activity to version one on 11/28/18, well over a year after the 8/15/17 Commission Meeting. The only version of the Guidelines that can be found since that date is the fourth version, i.e. the one emailed to Villard on February 19th.
- If Latimore prepared the Guidelines for the August 2017 Commission Meeting, why would she then access, modify and save version one on 11/28/18?³¹
- An inference can be drawn that Villard accessed and modified version one on 11/28/18 and at the same time accessed version four, perhaps added the parenthetical and put it in Memo form to present to the Commission but never did. Then on 2/19/19 accessed version four added August 2017 to support her representations that it was prepared for the 8/15/17 Commission Meeting to Villard.

g. The inferences are not supported by the Forensic Report.

- There are inferences that Latimore inappropriately created the Guidelines in the version that it exists today for the purpose of justifying that dignitaries/heads of state (i.e. elected officials) are the only ones to receive a Key and to show that Vallejo's intent was to bring this to the Commission Meeting in August 2017.
- Notwithstanding these inferences, there is no definitive way to ascertain when the revisions to versions one through three were made to produce version four. The Forensic Examiner was unable to determine the dates and content of the modifications made to version one on 11/28/18 and on version four on 2/19/19.

³¹ Latimore made it known during her interview with this Investigator that she has been in discussions with DeFillipo since he has become Mayor concerning developing a policy for protocol procedures. Perhaps after he was elected Mayor on 11/27/18, the two of them immediately began discussions the next day on 11/28/18, and Latimore prepared version four in Memorandum form to present to the new Commission for discussion and added the parenthetical with "Dignitaries and Head of States, etc." to fulfill the new Mayor's wishes. Then, to respond to Villard, Latimore changed or added August 2017 on 2/19/19 and represented that it was prepared for the 8/15/17 Commission Meeting to make it appear it was in existence and something relied upon or considered as a long-standing policy.

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B. Whether Pamela Latimore misrepresented her role in creating/altering a public record?

1. The Keys

- In addition to being incorrect that only dignitaries/heads of state can receive a Key to the City, Latimore misrepresented her authority in being the one that could create or alter City policy to reflect that she has the authority to determine who is and who is not eligible for a Key.
- There is unanimous support that the Guidelines are not a resolution.
- Latimore asserted that a policy and guidelines are the same and carry the same weight. She in fact stated that she could make policy and offered as an example, the Records Management Policy.
- Without having to make a finding on that assertion, the Guidelines Latimore has placed reliance on as her authority to determine who and who should not receive a Key, do not reference the word "policy." The word was deleted when she created the fourth version.
- Also deleted were the instructions and directions from the prior versions.
- Even if the instructions and directions were left on the document, the language still did not confer authority to Latimore.
- In her representations to staff and Villard, she, therefore, inserted her authority where none exists.
- Not one Interviewee indicated that the Clerk was clothed with the authority to usurp a Commission function on this issue.
- Vallejo stated it best when he said that he is the titular head of the government and, therefore, the decision rests with him. This is consistent with the City Charter as contained in the City Ordinance and with the City's practice. It is also consistent with the language of the Guidelines. The only award that references "Mayor and Council" is the Key to the City.
- It is un rebutted that DeFillipo supported the decision when Villard when indicated she wished to award a Key to Pearson. He did nothing to stop it nor indicated that he had to or did speak with City Clerk.
- Even Scott verified with Villard that DeFillipo acquiesced with the decision to award a Key to Pearson without consultation with Latimore.
- Latimore offered no information to the contrary.
- Scott, therefore, moved forward to have his staff, who keeps and maintains the Keys, ready for a Key presentation to Pearson at the February 19th Commission Meeting. It was Latimore that derailed it.
- DeFillipo, without having to consult with Latimore, even decided on-the-spot to award a Key to a non-elected official, Cyprien, at the February 19th Commission Meeting.
- No protocol exists by way of a guideline or policy or resolution that confers upon the City Clerk the authority to determine who and who does not receive a Key.
- Based on her job duties and responsibilities, she is the keeper of documents, not the decision maker on policy as it relates to awards.
- Moreover, there is no indication that the City ever intended the City Clerk be the decision maker. The *2016 Meeting Procedures/Points of Discussion*, that was never adopted, only references that Agenda Items are processed through the Clerk's Office, not that the City Clerk has authority to determine who gets an award. (See Attachment IIa-b).
- Even her own working document, versions one through four, do not outline any procedure that resembles granting or contemplating granting the City Clerk this authority. In versions one through three the Clerk's Office is only cited as the keeper of the award document, not the decision maker. She even stated to Joseph via email on 2/26/16 that the document she created is not strictly adhered to. Nothing has changed.

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- The Miami-Dade County document that Latimore claims she relied upon in creating the Guidelines states that awards such as Proclamations and Keys is a function of the Mayor's office. If Latimore's reliance at the outset was on this document, as she represented it was, any representation that the City Clerk had authority is disingenuous.
- Lastly, Latimore's own assertion during her interview with this Investigator that vetting Keys goes through the Chief of Staff's office, is recognition by her that prior to her interview she misrepresented her authority to staff and Villard in asserting that City policy conferred upon her the authority to decide who and who does not get a Key.
- This investigator finds that her misrepresentations are material. Latimore had at a minimum 8 instances when she could have retracted her misrepresentation regarding her role. They are as follows: 1) the week before the Commission Meeting when she spoke with Williams and said Pearson could not receive a Key; 2) in the February 18th telephone conversation with Villard wherein she stated she could decide who gets a Key and Pearson was not a dignitary; 3) when she emailed Villard stating the document she was relying upon was a policy and not a resolution; 4) when she emailed Villard, Scott and Johnston the Guidelines stating it was City procedures; 5) at the February 26th meeting with Villard, Scott and Johnston when she vacillated on how, why and who received the Guidelines; 6) during her February 26th evening discussion with Scott regarding the fact that she was misleading during the earlier meeting claiming she only opened the document and emailed it, when in fact she had made a revision to the Guidelines but only admitted to it after confronted with information to the contrary; 7) at the March 8th "mediation" session with Desulme and Villard when she continued to assert the Guidelines were her "working document" and she could change them thus changing policy in the City; and, 8) at the 3/19/19 Commission Meeting where she could have acknowledged she made a mistake.
- Even Latimore seemed to come to the realization that her authority did not exist by downgrading the document upon which she relied. In the February 18th telephone conversation, Villard's credible assertion was that Latimore called the document upon which she relied a "resolution." And even if she did not say resolution, the authoritative way in which Latimore stated that this was the way the City did business reasonably lead Villard to believe that the assertion carried the weight of the Commission like something that would be codified in a resolution. In the first email on February 19th, Latimore referred to the document as a "policy." In the second email she referred to the document as a "procedure." The document was none of the above.³²
- It was not until her interview with this Investigator when going through the history of division of duties that Latimore stated that Proclamations are vetted through her office but that Keys are vetted through the Chief of Staff's office.
- Whatever form the Guidelines is referred to, there is no support in the record that authorizes the City Clerk to bind the City to a policy without Commission approval. Especially when reliance is only based upon a "working document" that Latimore, or the Assistant City Clerk, can freely modify.
- Therefore, Latimore misrepresented her authority in placing reliance on the the Guidelines.

³² This Investigator found that Latimore was not credible in her protestations as to what she told Villard on the telephone on February 18th. She may have believed there was a resolution, but once she got to work and checked her files she should have realized there was no resolution, there was no policy, there was no determination that only dignitaries could receive a Key and that she did not have the authority to decide otherwise. I found Scott and Johnston to be credible in their observations that Latimore changed her story several times during the February 26th meeting, and I found Desulme to be credible in that Latimore expressed to him her true belief that she could change her working document and pass it off as policy.

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2. The Computer

- Latimore also inappropriately was under the belief that in her role as City Clerk she was exempt from the requirement to relinquish her computer.
- To determine the veracity of Latimore's representations regarding the creation of the Guidelines, Scott informed Latimore that IT would be coming to her office to examine her computer.
- Despite Latimore's protestations that she did not refuse to relinquish her computer on 2/27/19, two eye witnesses say otherwise. Moreover, Scott told her the night before that IT was going to come to her office to look at the computer. Whether they came one time or two times that day, is immaterial.
- Latimore raised as a defense two issues in this regard: 1) she was not told by anyone her computer would be collected or why; and, 2) she was working on confidential documents not subject to public disclosure. Neither defense is supported by the facts or City Policy.
- On or about 3/4/19, when IT returned to her office with an officer from the City Police Department Latimore acquiesced in relinquishing her computer.
- According to the Forensics Report, all of Latimore's inbox was empty and all her emails were hard deleted.³³
- Although Latimore is the City Clerk, she is also a City Employee. As such, she must adhere to all policies as stated, including the IT Policy as confirmed by the City Manager and The Senior IT Manager.

C. Whether or not Pamela Latimore was rude and disrespectful to Commissioner Villard?

- Villard and Latimore have different accounts of the way Latimore conversed with Villard during the 2/18/19 phone call.
- The record shows that Latimore acknowledged that the week prior to the February 19th Commission Meeting, she was irritated with staff when she found out the City was moving forward with awarding a Key to Pearson. And by Monday, learning that staff was still moving forward with giving the Key, Latimore remained irritated.
- As a result, she may very well have been louder than usual and more firm than usual when conversing on the telephone with Villard on February 18th.
- Being loud and firm does not necessarily equate to being rude and disrespectful in violation of City Policy.
- Latimore did not insult nor threaten Villard nor use profane language during the telephone conversation with Villard. Likely Villard was frustrated with Latimore's representations, but that, in and of itself is not rude conduct.
- However, on February 26th, there is corroboration from Scott and Johnston that during a meeting which included Villard, Latimore was loud and yelled at Villard, slammed her hands on the table and left the room shouting something to the effect that, "Ya'll can have the City Clerk job."
- Latimore explained her conduct was as such because she felt Villard was impugning her integrity and accused her of a felony.
- Once she left the meeting, Latimore saw Williams in the hallway in front of the elevator and yelled at him as well. Williams is sure an applicant who was being interviewed in a room next to the elevator heard the outburst. Dorsanvil, who was in an office approximately 40 feet away, heard the outburst.

³³ The scope of this investigation is not to determine whether or not Latimore violated policy by the hard deletion of her entire Inbox.

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- Latimore acknowledged that Commissioner Florimond escorted her down the elevator to check on her and help her calm down.
- Latimore has indicated that she has since apologized to both Williams and Villard.

D. Whether or not Pamela Latimore falsified her time record?

- There are no records to show that Latimore failed to submit a leave form for absences from the office when she was not at work for one or more days.
- Charter Officers such as the City Clerk have no written or oral procedures they are required to follow when it comes to reporting time off, when arriving “late” to work or when “leaving early” from work.
- As a courtesy, and when possible, Latimore and the other two Charter Officers, do let the Commissioners and Mayor know via email, text or otherwise when they will not be in the office for a day or longer. This practice is not followed 100% of the time and has never been enforced when not followed.
- For late arrivals and early departures, there is no set practice for notification to the Commissioners or the Mayor.
- In fact, the City does not have a general attendance policy for civil service or appointed employees.
- There is some evidence in the record that Latimore tends to arrive later in the day and tends to leave earlier. However, as City Clerk she works an inordinate number of hours due to late meetings and other official duties. There have never been restrictions on schedule flexibility.

VII. Conclusion

A. Inappropriate Alteration/Creation of a Public Record

1. Latimore did not inappropriately alter a public record.

Latimore made modifications to a public record that was her own “working document.” The document was always maintained in her files as a Word document and was never finalized. The record shows that the “working document” was neither discussed by the Commission any time after February 2016 nor voted upon or adopted as a resolution or a policy. In addition, the City Seal was never affixed to her “working document” thereby negating any implication that the document was an official record that could not be altered.

Accordingly, Latimore did not inappropriately alter a public record and, therefore, did not violate City Policies.

2. It is unsubstantiated that Latimore inappropriately created a public record.

There are inferences that Latimore inappropriately created the Guidelines, a public record, on February 19, 2019 in an effort to substantiate her representations made to the City Manager, staff and a Commissioner that Pearson was ineligible to receive a Key to the City. Those inferences are outlined above.

The fact that any inference exists, coupled with the finding that Latimore’s credibility has been called into question, raises doubt as to the appropriateness of the creation of the Guidelines. The force and effect of the Guidelines diminished as Latimore realized her representations could not be supported by the paper trail. Her representation of the Guidelines morphed from “resolution” (or the implication that the document had the weight of the Commission), to “policy” and finally to “procedures.” In addition, during the February 26th meeting her account of how and when the Guidelines were created changed, as corroborated by three meeting participants.

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The Metadata Report substantiates one or more revisions were made on 2/19/19 between the hours of 3:38pm when the document was opened and remained open for 6 minutes until it was saved at 3:47pm. That Report conclusively revealed that the document was not just merely “opened and emailed” as Latimore represented, but rather that she had revised the Guidelines. And Latimore failed to admit she had revised the Guidelines until she was confronted with the Metadata Report. However, these inferences could not be substantiated by the Forensic Analysis because the Analysis was unable to definitively pinpoint the date/time or content of the five (5) revisions made to the Guidelines.

Accordingly, Latimore did not inappropriately create a public record and, therefore, did not violate City Policy.

B. Misrepresentation of Role in Creating/Altering a Public Record

It is substantiated that Latimore misrepresented her role in creating/altering a public record in violation of City Policies.

1. Latimore did not possess the authority to determine who could and who could not be awarded a Key.

Latimore unilaterally derailed the award to Pearson claiming she had the authority to do so. That representation was incorrect.

There is no formal or informal process in place that confers vetting authority with the City Clerk. Even the very document that Latimore purported to place reliance on, the Guidelines, fails to vest this authority in her. Similarly, there is no practice in place that confers this authority upon her. If one existed then one or more of the many employees interviewed to include the City Manager, City Attorney, the Chief of Staff, current and former employees in the Chief of Staff’s office, and the former Mayor, would have so stated.

Even if they were all wrong, and vetting authority had been placed in the hands of the City Clerk, then two things would not have happened in February 2019: 1) DeFillipo would not have okayed the Key when Villard mentioned it to him without first consulting with Latimore; and, 2) DeFillipo would not have awarded a Key to Cyprien without first consulting with Latimore. The record shows that in both instances Latimore was not consulted. Moreover, Latimore admitted vetting Keys is not one of her functions.³⁴

On at least eight (8) occasions when confronted with the issue, Latimore never considered that she may be incorrect, nor did she admit she made a mistake. Had she spoken to DeFillipo first, read the language of the Guidelines and/or verified who had been awarded a Key in the past, this investigation could have been avoided. Whether she simply misunderstood or misapplied the process, or she intentionally engaged in conduct to thwart Villard’s idea to award a Key to Pearson, the outcome is the same; she failed to execute her duties as expected and thereby violated the Integrity and Service standards of the *RISE Standards and Proper Decorum Policy*.

Accordingly, Latimore misrepresented her role by stating she had the authority to determine who could and who could not receive a Key to the City in violation of City Policies.

³⁴ Nothing herein precludes City staff from drafting a resolution or policy to present to the Commission for a vote to codify this process.

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2. Latimore did not possess the authority to refuse to relinquish her computer.

As City Clerk, Latimore is subject to the same Policies as any other City Employee. The *Electronic Systems and Tools Policy* expressly states there is no expectation of privacy. The Policy states in pertinent part:

“The City has the right to conduct an investigation of any individual User’s City computer system activities and resources if there is a Reasonable suspicion that the search will uncover a violation of Law or City policy.”

The facts here are clear. Scott confronted Latimore with a discrepancy between her representations that she made no changes to the Guidelines versus a Metadata Report that showed otherwise. An investigation of her computer was triggered. Latimore was informed IT would be looking at the computer. Whether that examination was at her work station or at another location, Latimore was not entitled to any notice requirement of where the examination would take place or refuse to submit to the examination for lack of that notice. No City Employee is vested with personal property rights to the computer or its contents. Latimore’s excuse that her computer contains documents not subject disclosure, for whatever reason, is not an exception under the Policy. If that were the case, every City Employee could raise such an objection. The computer was being relinquished to IT, not the public.

With regard to the information contained in a City computer, the Policy further states:

“Additionally, all e-mail messages and their content and all files of any type contained on City computer systems, either business or personal, are the property of the city of North Miami Beach and users have NO individual ownership or privacy rights regarding these items.”

In addition to violating the IT Policy, her refusal also violates the *RISE Standards and Proper Decorum Policy*.

Not only did she refuse to relinquish her computer in violation of City Policies, the delay in collection may have hampered this investigation. Emails and documents were uncoverable in part due to the fact that her Inbox was empty, and emails were hard deleted.³⁵

Accordingly, Latimore misrepresented her role by stating she had the authority to refuse to relinquish her computer in violation of City Policies.

C. Rude and Disrespectful to Commissioner Villard.

It is unsubstantiated that Latimore was rude to Commissioner Villard

1. Rude

Latimore did not use profanity, threats, or insulting comments towards Villard during the February 18th telephone conversation or during the February 26th meeting. Latimore told Villard something she wanted to do

³⁵ The hard deletion of all emails from a City computer by a City employee could be a new cause to investigate alleged misconduct on the issue of destruction of public documents. However, this not the subject of this investigation.

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could not be done. Although it is arguable that to assert authority that one does not have could be rude, without corroboration, it is unsubstantiated that Latimore was rude to Villard.

Accordingly, Latimore was not rude towards Villard and therefore, did not violate City Policies.

It is substantiated that Latimore was disrespectful to Commissioner Villard in violation of City Policies.

2. Disrespectful Conduct.

Latimore used a firm tone in the February 18th telephone conversation and came across uncharacteristically direct. Again, without corroboration or some other information, without more, there is no finding that Latimore was disrespectful during that conversation.

However, there is substantial corroboration that during the February 26th meeting, Latimore yelled at Villard when responding to questions, slammed her hands on the table and yelled that they could have her job while walking out of the meeting. She continued to yell at Williams which could be heard by others in the office.

Pursuant to the Respect standard under the *RISE Standards and Proper Decorum Policy*, employees are expected to:

“...treat others with dignity and respect, maintaining our composure under pressure, adversity, and Challenging situations.”

Latimore’s conduct violated the standard of Respect. She lost her composure which even spilled over and affected others in the office.

Accordingly, Latimore engaged in disrespectful conduct towards Villard and, therefore, violated City Policy.

C. Falsification of Time

Latimore did not falsify her time.

Latimore neither failed to record her leave time nor did she adjust her leave time. There are leave records to support her absences from work. In addition, the City does not have a verbal or written policy regarding Latimore’s requirement to check-in or notify her supervisors when she will be absent or when she will arrive late or leave early. She attempts to notify her supervisors for any of these absences, and under most circumstances it is done. Under all circumstances she is in touch with her office staff or her staff can reach her by telephone, text or email.

Accordingly, Latimore did not falsify her time and, therefore, did not violate City Policy.

Date: May 13, 2019

Sharon P. Kelley
Sharon P. Kelley, Investigator