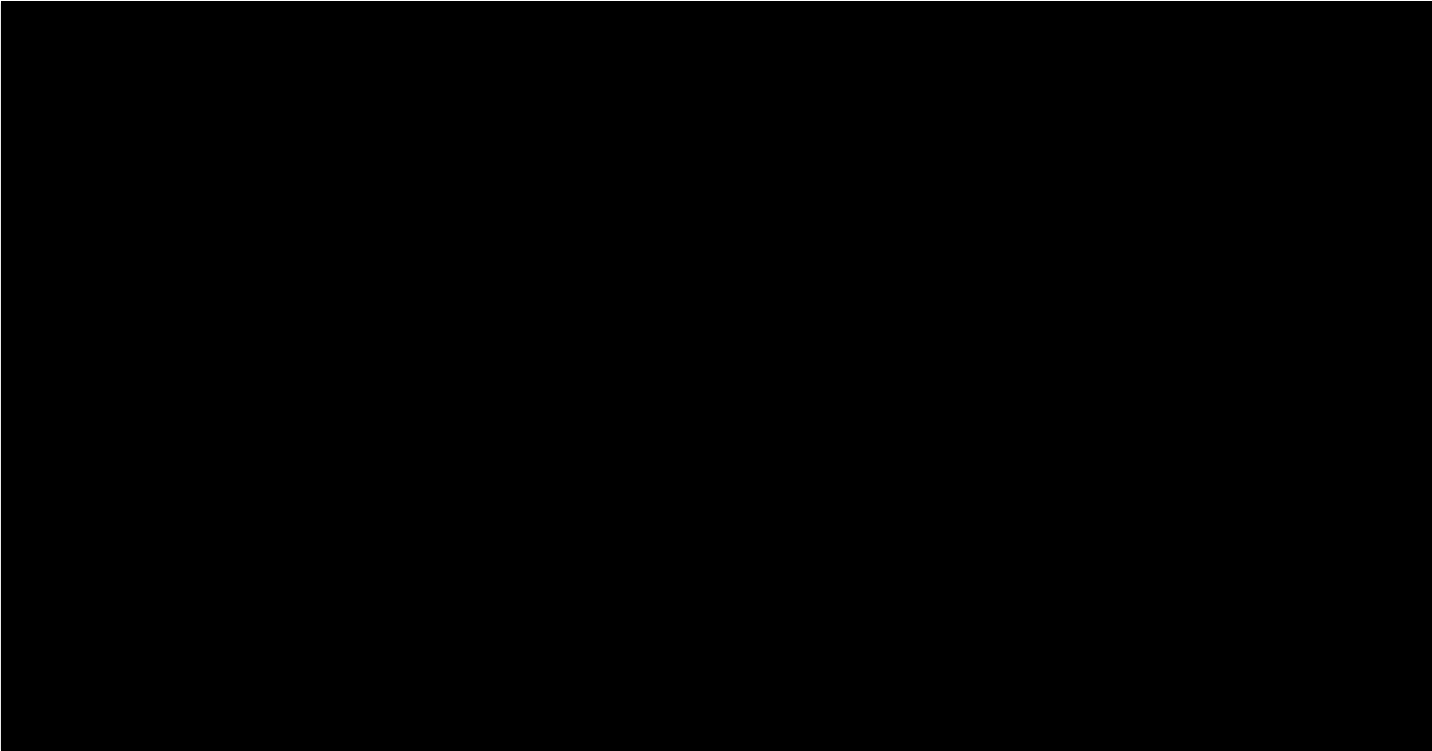


**IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT  
IN AND FOR MONROE COUNTY, FLORIDA**

**FINAL REPORT OF THE MONROE COUNTY GRAND JURY  
SPRING TERM 2012**

**THE INVESTIGATION INTO THE PURCHASE AND CRIMINAL  
MISAPPROPRIATION OF COUNTY-PURCHASED IPHONES AND IPADS BY THE  
SENIOR ADMINISTRATOR OF MONROE COUNTY'S TECHNICAL SERVICES  
DEPARTMENT**

**MEMBERS OF THE SPRING TERM 2012 GRAND JURY**



**DENNIS W. WARD**  
State Attorney

**MARK WILSON**  
Assistant State Attorney

## I. INTRODUCTION

It is the province and duty of the Grand Jury to investigate possible unlawful actions by all persons, private citizens and public officials alike, and to return indictments when warranted; it is also the Grand Jury's lawful and proper function to consider the actions of public bodies and officials in the use of public funds, and to report or present findings and recommendations as to practices, procedures, incompetency, inefficiency, mistakes, and misconduct involving public offices and public monies.<sup>1</sup>

On February 27, 2012, Chief Assistant County Attorney Robert Shillinger notified the State Attorney's Office that county staff had discovered that a number of county-purchased Apple iPhones and iPads were unaccounted for, and had possibly been sold by Lisa Druckemiller, Senior Administrator of Monroe County's Technical Services Department. Mr. Shillinger reported that Ms. Druckemiller had abruptly retired from county employment on February 24, 2012, and had agreed to repay the county \$5,600.92 for the missing items. The agreement between Ms. Druckemiller and the county was not an admission of theft on her part but rather an admission of responsibility. The State Attorney's Office initiated an investigation into the allegations and ultimately presented its findings to the Monroe County Grand Jury. On July 11, 12, and 13, 2012, the Grand Jury heard testimony from thirty-one witnesses involved in the case, including Lisa Druckemiller. On July 13, 2012, the Grand Jury returned a two-count indictment charging Ms. Druckemiller with Organized Scheme to Defraud Over \$20,000 and Dealing in Stolen Property. This report represents the culmination of the Grand Jury's inquiry.

## II. THE FACTS

Lisa Druckemiller was the Senior Administrator of Monroe County's Technical Services Department, which provides information management services to county offices and employees. Among her duties as Senior Administrator, Ms. Druckemiller was responsible for the acquisition and distribution of cellular telephones to county employees whose jobs required them. Apart from her supervisees in the Technical Services Department, it was not Ms. Druckemiller's responsibility to determine whether

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<sup>1</sup>Kelly v. Sturgis, 453 So. 2d 1179, 1182 (Fla. 5th DCA 1984).

a particular county employee needed a cellular telephone to perform his or her job effectively—that decision was made by the employee’s department head. Rather, Ms. Druckemiller’s job was to purchase the phone (with the attendant service contract), activate the account, and furnish it to the employee.

Prior to Roman Gastesi becoming County Administrator, Monroe County issued Nextel cellular phones from Sprint to its employees. When Mr. Gastesi arrived he sought to convert the county to BlackBerry smartphones because he was accustomed to using them in his previous job. Ms. Druckemiller informed him the county’s existing servers could not support BlackBerry devices, and it would cost upwards of \$15,000 to buy servers that would. In light of this expense, Mr. Gastesi opted to switch to iPhones from AT&T, which would give county employees smartphone capability without necessitating the purchase of new servers. Ms. Druckemiller implemented this change.

In the spring of 2010, Danny Kollhage, Monroe County Clerk of the Circuit Court, directed his Internal Audit Department to conduct an audit of the county’s cellular telephone policies and procedures. This audit necessarily focused on the manner in which the Technical Services Department obtained and accounted for county-purchased cellular telephones. By way of background, the audit noted, “The Technical Services Department handles the ordering and repair of cellular telephones, the physical control of on hand cellular telephones and accessories, the activation and termination of cellular service and the approval of cellular service bills for submittal to accounts payable for payment and recording.”<sup>2</sup> The Senior Administrator of the Technical Services Department at the time of the audit was Lisa Druckemiller.

The audit made nine findings and twenty-one recommendations to improve the county’s policies and procedures regarding cellular telephones. These findings and recommendations were forwarded to County Administrator Roman Gastesi, who responded to them in writing. Mr. Gastesi’s responses were incorporated into the final

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<sup>2</sup> Audit Report of Monroe County Cellular Telecommunications Policies and Procedures (April 5, 2010), p. 2.

audit report, which was issued on April 5, 2010. Copies of the report were furnished to Mr. Gastesi, Ms. Druckemiller, and the Board of County Commissioners.<sup>3</sup>

The audit's most important findings were that the Technical Services Department lacked an inventory and tracking system for county cell phones, and that there was an inadequate separation of duties regarding their custody and control.<sup>4</sup> In response to the first issue—the absence of an inventory and tracking system—the county administrator responded that the Technical Services Department had implemented a database to account for county cell phones. This database included which employees had cell phones, and the telephone and serial number assigned to each user.<sup>5</sup> In response to the second issue—the recommendation that a separation of duties be instituted in the custody and control of county cell phones—the county administrator stated he was “satisfied with the distribution of responsibilities with regard to cellular telephones.”<sup>6</sup>

Once the alleged misappropriation of county-purchased iPhones and iPads came to light in February 2012, Mr. Kolhage directed his Internal Audit Department to conduct a second audit of the Technical Services Department. This audit was performed by Director of Internal Audit Sandra Mathena and Auditor Pamella Sellers, who

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<sup>3</sup> By law, it is the county administrator's duty to “[s]upervise the care and custody of all county property.” § 125.74(1)(g), Fla. Stat. The clerk of the circuit court, in contrast, is custodian of all county funds. Art. VIII, § 1(d), Fla. Const. Accordingly, while the clerk of the circuit court can recommend changes in policy or procedure concerning the care and custody of county property, it is the county administrator who ultimately decides if these changes should be implemented. The administrator's decisions in that regard—as in all matters—are subject to the ultimate review of the elected board of county commissioners. See §§ 125.01(1)(s), 125.73, 125.74, Fla. Stat.

<sup>4</sup> See Audit Report of Monroe County Cellular Telecommunications Policies and Procedures (April 5, 2010), pp. 9, 11.

<sup>5</sup> Under section 69I-73.002 of the Florida Administrative Code, property worth less than \$1000.00 is not required to be inventoried and recorded in the county's fixed asset system. Individual iPhones fall below this threshold. Nonetheless, given the number of iPhones in use by county employees (sixty-three at the time of the audit) and their aggregate value (\$12,537), the clerk—and apparently the county administrator—agreed county iPhones should be inventoried and accounted for.

<sup>6</sup> Letter from Roman Gastesi, County Administrator, to Danny L. Kolhage, Clerk of the Circuit Court, dated April 1, 2010, and attached to the final audit report as Exhibit C. (The letter was signed by Debbie Frederick, Deputy County Administrator, on behalf of Mr. Gastesi.)

coordinated their work with Investigator Christopher Weber of the State Attorney's Office. The focus of their work was to ascertain, to the fullest extent possible, how many iPhones and iPads had been purchased by the county, who had them, and under what circumstances the items had come into their possession. The auditors first decided to physically inspect each cellular phone owned by the county to ensure their inventory was accurate. And given that the suspected wrongdoer was the former head of the Technical Services Department—and thus in a position to falsify the data—the auditors did not rely on the inventory maintained by that department to determine who was (or who had been) in actual possession of the equipment. Instead, the auditors obtained from AT&T a list of iPhones and iPads the county had purchased since October 21, 2010. (Information from this date was the earliest AT&T could provide.) Working from this data, the auditors discovered that although the Technical Services Department had instituted an iPhone inventory and tracking system in response to the clerk's 2010 audit, the 2012 audit revealed the resultant inventory was incomplete because iPhones had not been added to the inventory at the time of purchase. Instead, iPhones had been added only at the time they were issued to an employee and activated. Thus, there was a gap between purchase and issuance when the Technical Services Department had actual possession of equipment that was not reflected in the inventory. And because most of the missing iPhones were misappropriated before being issued to anyone, the inventory did not reveal their absence. The inventory system thus significantly undercounted the true number of items the county had purchased.

After physically inspecting the iPhones and iPads legitimately in possession of county employees, and recognizing there were many items the county had purchased that remained unaccounted for, the State Attorney's Office subpoenaed records from AT&T and Apple in an effort to locate the missing equipment. The AT&T subpoenas sought subscriber information for the missing items based on each phone's IMEI (International Mobile Equipment Identity) number, which is unique to each phone and is not affected by the replacement of the phone's SIM (subscriber identity module) card. This enabled the State Attorney's Office to determine the subscriber for each phone—i.e., who was billed for service. The Apple subpoenas sought iTunes account information, on the assumption that many iPhone users subscribe to iTunes. The users of most missing iPhones and iPads were identified either by AT&T records, Apple records, or both. Five misappropriated iPhones and one iPad remain unconnected to any identifiable user. In

total, the investigation found that fifty-two items purchased by the county were unaccounted for: thirty-nine iPhones, twelve iPads, and one LG phone.

Lisa Druckemiller was interviewed three times. The first two interviews occurred shortly after she resigned from county employment and the extent of the alleged theft was not fully known. During the initial interview she denied any involvement with the missing iPhones and iPads. Eventually she admitted to taking five iPads and two iPhones and gifting them to persons she declined to name. She denied selling any county property. During the second interview, Ms. Druckemiller admitted to taking five 64 GB iPads II's and three iPhone 4S's. She stated she sold one iPad and two iPhones to County Administrator Roman Gastesi for \$600.00, gave three iPads and one iPhone to her subordinate Henry ("Hank") Kokenzie, and gave one iPad to her brother-in-law William Riech. After all the missing items had been identified and investigators had spoken with their recipients, Ms. Druckemiller was interviewed a third time. During this final interview, she admitted to selling numerous iPhones and iPads to coworkers, relatives, neighbors, and friends. She said she spent some of the money she received on office parties and kept the rest.

Based on records obtained from AT&T and Apple, interviews with Ms. Druckemiller, and interviews with the recipients, the following persons received county-purchased equipment from Lisa Druckemiller:

<u>RECIPIENT</u>	<u>ITEM</u>	<u>PRICE PAID<sup>7</sup></u>	<u>COUNTY'S COST</u>
Irina Baker	iPhone 4	gift	\$299.00
Irina Baker	iPhone 4S	gift	\$399.99
Irina Baker	iPad II	gift	\$829.00
Tina Boan	iPhone 4	\$99	\$299.00
Tina Boan	iPhone 4S	\$129.99 <sup>8</sup>	\$399.99

<sup>7</sup> In some cases there was a disparity between the amount Ms. Druckemiller reported receiving and the amount the recipients claim to have paid. Because most of the sales were in cash, it is impossible to resolve these discrepancies. Whatever the price or manner of payment, none of the purchasers paid sales tax.

Lacy Caraballo	iPhone 4S	\$100 <sup>9</sup>	\$399.99
Heather Carruthers	iPhone 4	\$99.99 <sup>10</sup>	\$299.00
Sol Connelly	iPhone 4	\$100	\$299.00
Isabel Desantis	iPhone 4	gift	\$299.00
Isabel Desantis	iPhone 4S	gift	\$399.99
Brandon Druckemiller	iPhone 4	gift	\$299.00
Brandon Druckemiller	iPhone 4	gift	\$299.00
Brandon Druckemiller	iPad II	gift	\$829.00
Lisa Druckemiller	iPhone 4	gift	\$299.00
Lisa Druckemiller	iPhone 4S	gift	\$399.99
Lisa Druckemiller	iPhone 4S	gift	\$399.99
Lisa Druckemiller	iPad II	gift	\$729.00
Lisa Druckemiller	iPad II	gift	\$829.00
Ryan Druckemiller	iPhone 4	gift	\$299.00
Ryan Druckemiller	iPhone 4	gift	\$299.00
Ryan Druckemiller	iPhone 4S	gift	\$399.99
Ryan Druckemiller	iPad II	gift	\$829.00
Vicki Fleck-Lockwood	iPhone 4	\$80	\$299.00
Roman Gastesi	iPhone 4	\$100	\$299.00

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<sup>8</sup> Ms. Boan paid by check for this phone. The check was made payable to Lisa Druckemiller.

<sup>9</sup> Ms. Druckemiller reports Ms. Caraballo paid \$129 for this phone. Ms. Caraballo states she paid \$100.

<sup>10</sup> Ms. Carruthers paid by check for this phone. The check was made payable to Lisa Druckemiller.

Roman Gastesi	iPhone 4S	\$99	\$399.99
Roman Gastesi	iPhone 4S	\$125 <sup>11</sup>	\$399.99
Roman Gastesi	iPhone 4S	\$125 <sup>12</sup>	\$399.99
Roman Gastesi	iPad II	\$450	\$829.99
Thomas Hampton	iPhone 4	\$100	\$299.00
Thomas Hampton	iPhone 4	\$100	\$299.00
Lance Hoverson	iPhone 4	\$50	\$299.00
Lance Hoverson	iPhone 4	\$50	\$299.00
Lance Hoverson	iPhone 4	gift	\$299.00
Henry Kokenzie	iPhone 4S	\$200 <sup>13</sup>	\$399.99
Henry Kokenzie	iPhone 4S	\$200	\$399.99
Henry Kokenzie	iPad II	\$450	\$829.99
Henry Kokenzie	iPad II	\$450	\$829.99
Henry Kokenzie	iPad II	\$450	\$829.99
Alexsondra Leto	iPhone 4	\$80	\$299.00
Alexsondra Leto	iPhone 4	\$80	\$299.00
Alexsondra Leto	iPhone 4S	\$150 <sup>14</sup>	\$399.99
Michael Pontarelli	iPad II	\$450	\$848.00

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<sup>11</sup> Ms. Druckemiller reports Mr. Gastesi paid \$100 for this phone. Mr. Gastesi states he paid \$125.

<sup>12</sup> Ms. Druckemiller reports Mr. Gastesi paid \$100 for this phone. Mr. Gastesi states he paid \$125.

<sup>13</sup> Ms. Druckemiller reports she gave this phone to Mr. Kokenzie and received no payment for it. Mr. Kokenzie states he paid \$200 for it.

<sup>14</sup> Ms. Druckemiller reports Ms. Leto paid \$129 for this phone. Ms. Leto states she paid \$150.



Sheryl Rahming	LG LC900	\$50 <sup>15</sup>	\$99.99
William Riech	iPad II	gift	\$829.99
Donna Smyth	iPad II	\$450	\$829.00
Elizabeth Wood	iPhone 4	\$200	\$299.00

Irina Baker, Isabel Desantis, Brandon Druckemiller, Ryan Druckemiller, Vicki Fleck-Lockwood, Lance Hoverson, and William Riech are related to Ms. Druckemiller by blood or marriage. Sol Connelly, Michael Pontarelli, and Donna Smyth are Ms. Druckemiller's neighbors or friends. Tina Boan, Lacy Caraballo, Heather Carruthers, Roman Gastesi, Thomas Hampton, Henry Kokenzie, Alexsondra Leto, Sheryl Rahming, and Elizabeth Wood are county employees.<sup>16</sup>

Ms. Druckemiller, while admitting to misappropriating the items just listed, denied ever having offered to obtain these items for others. Many witnesses attest otherwise. Significantly, several persons who purchased nothing from her stated Ms. Druckemiller said she could obtain discounted iPhones from AT&T. Ms. Druckemiller states her conversion of county property began in late 2009 or early 2010 when County Administrator Roman Gastesi appeared in her office, placed two \$100 bills on her desk, and said, "I want two iPhones for my kids. Make it happen." Shortly after obtaining the phones for Mr. Gastesi, Ms. Druckemiller stated other high ranking county employees approached her about obtaining iPhones for themselves. She assumes Mr. Gastesi mentioned to others that she was able to procure steeply discounted iPhones. She said she was confused and didn't know what to do, but ultimately ordered the phones and pocketed the money she received. This pattern went on for at least eighteen months.

Mr. Gastesi denies this account. He stated he mentioned to Ms. Druckemiller in 2009 that he wanted to replace two iPhones for his sons, and she told him she could obtain new iPhones at a reduced price. Similarly, he asserted Ms. Druckemiller offered to procure a discounted iPad for him shortly before Christmas 2011. He stated discounts for public employees are commonplace, and he believed the iPhones were available to

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<sup>15</sup> Ms. Druckemiller reports Ms. Rahming paid \$40 for this phone. Ms. Rahming states she paid \$50.

<sup>16</sup> Ms. Desantis and Ms. Fleck-Lockwood are also county employees, but their principal connection to Ms. Druckemiller is through blood or marriage rather than by virtue of public employment.

Ms. Druckemiller for that reason. He stated he paid for the items in cash because it was more convenient for him than writing a check. Mr. Gastesi also denies having mentioned to others that Ms. Druckemiller could obtain discounted iPhones. Other witnesses, however, say he did.

Because the AT&T records go back only to October 21, 2010, it is impossible to determine whether Mr. Gastesi received the first misappropriated iPhones. Clearly, Ms. Druckemiller had begun to misappropriate county-purchased iPhones before that date.<sup>17</sup> Accordingly, it is impossible to confirm Ms. Druckemiller's claim that Mr. Gastesi was the genesis of her pattern of misappropriating county property.

Two people not listed above also merit discussion. In November 2011, County Mayor David Rice asked Ms. Druckemiller about buying an iPad for his wife. Mr. Rice broached the subject because he knew Ms. Druckemiller, as head of the Technical Services Department, was more familiar with computer equipment than he was. After consulting with her, Ms. Druckemiller used Mr. Rice's credit card and purchased—directly from Apple—an iPad, an iPad cover, and an external keyboard. Mr. Rice provided his credit card bill and receipt for this purchase, which showed he paid full price for the items as well as sales tax.

Deputy County Administrator Debbie Frederick, Lisa Druckemiller's friend and direct supervisor, admitted to buying a phone from her for personal use. Ms. Frederick gave Ms. Druckemiller her credit card to do this. Ms. Frederick reported that shortly thereafter, she noticed her credit card statement included multiple unauthorized charges for Lisa Druckemiller's personal bills (utility payments and the like). Ms. Frederick stated she confronted Ms. Druckemiller about the charges and Ms. Druckemiller told her they were a mistake and that she would correct them. Instead of stopping, the unauthorized charges continued for a period of eight months, totaling approximately \$23,000, and only stopped when Ms. Frederick canceled her credit card. Ms. Frederick stated Ms. Druckemiller agreed to repay her in installments, and has since repaid over \$10,000. Ms. Frederick stated she never reported this theft to law enforcement authorities or to County Administrator Gastesi because she and Ms. Druckemiller were friends.

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<sup>17</sup> The records reveal five iPhone 4's were purchased by the county on October 21, 2010, and converted to private use. One phone could not be located or connected to any known individual. The others were found to have been used by Tina Boan, Ryan Druckemiller, Roman Gastesi, and Elizabeth Wood. (Two phones, purchased on August 5 and August 8, 2010, were traced by other means to Alexsandra Leto.)

Ms. Druckemiller denies this account. She admits using Ms. Frederick's credit card for her own purposes, but insists it was with Ms. Frederick's express permission. She stated Ms. Frederick was experiencing personal problems, and in order for her to have access to cash, they agreed Ms. Druckemiller would use Ms. Frederick's credit card and Ms. Druckemiller would repay Ms. Frederick in cash. Ms. Druckemiller denies using Ms. Frederick's credit card without her consent.

### III. OUR ASSESSMENT

We have two major concerns. The first is with those who bought iPhones and iPads from Lisa Druckemiller. The second is with the county's efforts—or lack thereof—to account for these items and adopt measures to prevent thefts like this from occurring.

We are of the opinion that most people who purchased iPhones and iPads from Lisa Druckemiller should have known something was amiss. The combination of the low price, cash payment, and the lack of a receipt should have prompted all but the most credulous purchasers to question the propriety of these deals. As the old adage goes, if something sounds too good to be true, it probably is. We recognize Ms. Druckemiller may have allayed buyers' concerns by telling them she was able to obtain these items at a steep discount by virtue of her job, but this explanation only addresses the matter of price. The days of cash sales for expensive consumer electronics are long gone—unless you are buying items that fell off the back of the proverbial truck. And wouldn't an ordinary person expect a receipt of some sort for warranty purposes? Apparently not the people who bought iPhones and iPads from Ms. Druckemiller.

But although everyone should have known better, not everyone is equally to blame. We believe county employees who availed themselves of these deals deserve greater censure than, for example, Lisa Druckemiller's next-door neighbors. Public employees are generally familiar with how public money and public property is accounted for, and Ms. Druckemiller's fellow employees knew the position she held. More so than the ordinary person, her fellow employees should have been doubly cautious about the propriety of obtaining a benefit of this sort that was unavailable to the public at large.

We recognize that perfection is an unrealistic and unobtainable standard for public employees and ordinary citizens alike. But while we acknowledge the reality of human imperfectability, we think it is not too much to ask public employees—when a conflict

arises between the public's interest and their own—to place the public's interest first. Few would disagree with that simple statement. The situation here is somewhat more nuanced, of course, because virtually all county employees who availed themselves of cut-rate iPhones and iPads from Lisa Druckemiller claimed to have no suspicions about their origins, despite their unusually favorable price. We heard from a number of county employees who stated they had no misgivings because they knew iPhones were available for \$99. To put the matter delicately, we are skeptical about the candor of these statements. Anyone even passingly familiar with cell phones knows that when a new model hits the market, older models are offered at steep discounts. And anyone even passingly familiar with iPhones knows the newest models have never been available for \$99, especially without a service contract. So we are being asked to accept that people who bought the latest, greatest iPhones had no qualms about the low (cash) price because other (older) iPhones could be had for \$99. With all due respect, this doesn't wash with us. Only one person who bought an iPhone from Ms. Druckemiller (ironically not a public employee) candidly admitted that when he paid \$100 for what he knew to be a \$500-600 iPhone, the deal was too good to be true.<sup>18</sup> Unfortunately, no county employee was similarly forthcoming.

Another common refrain we heard was that Ms. Druckemiller told buyers (and prospective buyers) that the exceedingly low price was available because the county's AT&T representative gave her an AT&T employee discount, which she would then pass on. An alternative version of this was that Ms. Druckemiller told buyers the county was periodically eligible to receive a certain number of discounted iPhones because of the volume of business the county did with AT&T. While these explanations are facially plausible, everyone seems to have accepted them without question. Even if it were true the county could receive discounted iPhones, why were they paid for in cash? Why were no receipts offered or requested? These obvious questions were simply never asked.

In deciding whether those who bought equipment from Ms. Druckemiller should be criminally charged, we considered the applicability of the Dealing in Stolen Property statute.<sup>19</sup> A person is guilty of Dealing in Stolen Property if he or she "traffics in" (i.e.,

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<sup>18</sup> The county actually paid \$299 for this iPhone, but that price included a two-year service contract.

<sup>19</sup> Section 812.019(1), Florida Statutes.

buys, receives, possesses, obtains control of or uses) property he or she *knows or should know was stolen*. The requisite intent—“knows or should know”—is satisfied if (1) the person had knowledge the property was stolen at the time he or she received it, or (2) the circumstances of the transaction were sufficiently suspicious to put a person of ordinary intelligence and caution on inquiry.<sup>20</sup> The question we considered was whether those who purchased iPhones and iPads from Lisa Druckemiller—in cash, at bargain prices, and without receipts—*should have known* those items were stolen. In other words, were the circumstances of the transactions sufficiently suspicious to put a person of ordinary intelligence and caution on inquiry that these items were stolen? The consensus of the Grand Jury was that the answer to this question is arguably yes.

Nonetheless, we elected to indict only Lisa Druckemiller. Why only her? In short, because although we have deep reservations about whether those who benefited from Ms. Druckemiller’s thefts were truly ignorant, it is possible that some genuinely were, and naïveté is not a crime. We believe it is preferable to allow those involved to escape criminal liability—even though some arguably deserve not to—rather than indict the merely gullible. Separating the two isn’t easy. Ultimately, we believe most people who purchased iPhones and iPads from Lisa Druckemiller engaged in some form of willful blindness. Willful blindness (also referred to as contrived ignorance or conscious avoidance) has been defined as a “strong suspicion of wrongdoing coupled with an active indifference to the truth.”<sup>21</sup> The question here is whether those who bought items from Ms. Druckemiller consciously avoided asking questions in order to obtain the benefit of cheap iPhones and iPads so they would not be burdened by knowledge they were benefiting from theft. Of the utility of willful blindness, David Luban has written, “Deniability refers to one’s capacity to deny guilty knowledge truthfully.... Virtually all of us prefer not to know things, if knowing them will require us to take unwelcome action. Why does our conscience work that way? The reason, I suspect, is that the quest for deniability seems not as bad as dishonesty. A dishonest person simply learns the truth and then lies about it. Evading truth is an expedient for *avoiding* lies.”<sup>22</sup> Willful

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<sup>20</sup> State v. Graham, 238 So. 2d 618, 620 (Fla. 1970).

<sup>21</sup> United States v. Draves, 103 F.3d 1328, 1333 (7th Cir. 1997).

<sup>22</sup> David Luban, *Contrived Ignorance*, 87 Geo. L.J. 957, 959 (1999) (emphasis in original).

blindness thus allows its practitioners to obtain a benefit in suspicious circumstances with a relatively clean conscience. It seems to us this is most likely what happened here.

As for the county's efforts to account for iPhones and iPads, we think the simplest and best course is to eliminate them. We recognize, of course, that such items aid many county employees in carrying out their public duties. Nevertheless, the county could address this by implementing a stipend for those employees whose jobs require them.<sup>23</sup> Clerk of the Circuit Court Danny Kolhage put it best: the county should "get out of the business" of providing county employees with iPhones. A stipend system would eliminate the need to purchase, track, and account for these items. It would eliminate overage charges for telephone usage and text messages, which apparently was a regular occurrence. It would eliminate the need to replace iPhones lost or damaged by county employees, which occurred with disturbing frequency. (It is no novel observation that people tend to take greater care of their own property than the property of others.) And it would eliminate the absurd pretense of Monroe County Administrative Instruction 4403.2(4)A, which forbids the personal use of county cell phones. It is hard to imagine a policy more frequently flouted than this one.

We realize that no set of safeguards—in the form of policies and procedures—can be instituted that will eliminate the possibility of theft and fraud. The human ingenuity for such things is impossible to fully anticipate and prevent. And of course at a certain point, the costs of safeguards outweighs the costs of theft. But commonsense rules can and should be adopted to make theft and fraud more difficult and easier to detect. Apart from doing away with county-issued iPhones and iPads entirely, we think the change that would likely have prevented the theft by Ms. Druckemiller was one suggested in the clerk's 2010 audit report: institute a separation of duties regarding the custody and control of cell phones. The authority to purchase, issue, and track cell phones was vested solely in Lisa Druckemiller, as was the authority to approve cellular service bills. No one else played a meaningful role in this process. Accordingly, the integrity of the system depended on the competence and honesty of Lisa Druckemiller alone. In hindsight, trust in her was obviously misplaced. But it was clear in 2010 (to the auditors, anyway) that a

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<sup>23</sup> A related matter is the number of county employees who have county-issued iPhones. We understand there are more than 100 such employees. Do so many people really need county iPhones to do their jobs? We doubt it. We suspect county-issued iPhones have morphed from necessities into perquisites. But that is for the county administrator and board of county commissioners to judge.

system exclusively dependent on a single person was a bad idea. Unfortunately, the county administrator declined to implement a separation of duties in accordance with this recommendation.

As stated previously, we recognize humans are imperfect, and any organization as big as the county will inevitably employ persons of less-than-stellar character or persons whose once stellar character has fallen off. Well designed systems account for this. James Madison famously wrote, "If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary.... [E]xperience has taught mankind the necessity of auxiliary precautions."<sup>24</sup> Wherever possible, systems should not depend on the honesty of a single individual. This is particularly true when the items at issue are as sought after as iPhones and iPads. People will steal anything, of course, but some things are more tempting than others. Portable computers and cell phones merit closer scrutiny than manhole covers. There undoubtedly are other kinds of county property that, like iPhones and iPads, are susceptible to theft but fall beneath the \$1000 inventory threshold. Instead of choosing a lower threshold, we think the best course for the county is to direct department heads to identify the most theft-prone items in each department and include those items in their general inventory of property worth \$1000 or more. This will accomplish the goal of tracking theft-prone property without vastly expanding the number of items the county must inventory each year.

Auditors from the clerk's office shared the findings and recommendations of their 2012 audit with the Grand Jury. Their audit report will be released upon issuance of the Grand Jury's report. Many of these recommendations would become moot if the county stopped issuing cell phones altogether. However, if the county elects to continue issuing cell phones, we urge the county to adopt the auditors' recommendations. It should surprise no one that several of the auditors' recommendations in 2012 are identical to those made in 2010. It is largely the failure of the county to adopt the auditors' previous recommendations that allowed Ms. Druckemiller to commit her alleged crimes and go undetected as long as she was.

In sum, we believe County Administrator Roman Gastesi's actions warrant his dismissal. His first error in judgment was rejecting the auditors' recommendation to

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<sup>24</sup> James Madison, *The Federalist No. 51* (1788) (emphasis added).

institute a separation of duties regarding county cellular telephones. As mentioned above, the failure to adopt this recommendation is what allowed this misappropriation to happen. In itself, a policy misjudgment of this sort would not be grounds for dismissal. However, Mr. Gastesi eagerly availed himself of at least four cut-rate iPhones and one cut-rate iPad from Lisa Druckemiller, paying only \$899 for items that cost county taxpayers \$2,328.96. And the reason the county paid only \$2,328.96 for this equipment is because it entered into multi-year service contracts as well. On the open market—where Mr. Gastesi should have been in the first place—the cost of these items without service contracts would have been much higher. As mentioned previously, we don't know what suspicions people in Mr. Gastesi's situation may or may not have had, but between the low price, cash payment, and lack of receipts, if he had no suspicions, he should have. We have no way of knowing whether the idea for these discounted sales originated with Mr. Gastesi or Ms. Druckemiller. But it is enough to say that the county administrator, who sits atop the organization and should set the standard for probity, should have steered clear of these sweetheart deals even if they were Ms. Druckemiller's idea. We believe Mr. Gastesi did, in fact, encourage other county employees to obtain iPhones and iPads from Lisa Druckemiller. His encouragement and poor personal example fostered a permissive environment—a culture of entitlement, if you will—in which it was acceptable for county employees to avail themselves of special discounts from Ms. Druckemiller that were not available to the public at large. In our view, the deplorable personal example he set for his subordinates merits special condemnation. Moreover, Mr. Gastesi personally benefited from a theft he could have prevented. He should be dismissed.

We believe Deputy County Administrator Debbie Frederick should be dismissed as well. As Lisa Druckemiller's direct supervisor, Ms. Frederick was in the best position to monitor whether county-purchased iPhones and iPads were being misappropriated. As with Mr. Gastesi, she was aware of the auditors' 2010 recommendation that a separation of duties be instituted in regard to county cell phones. She was equally aware that Mr. Gastesi declined to implement that recommendation. But by far her greatest error in judgment was failing to alert the county administrator—or anyone else for that matter—of the fact Lisa Druckemiller had stolen from her. It is unnecessary to sort out whose account of this event should be believed. Accepting everything Ms. Frederick says to be true, she was the victim of a \$20,000+ credit card fraud by Lisa Druckemiller. Whether to



report the theft of her own money to the police is her business, of course, and for reasons of friendship or otherwise Ms. Frederick elected not to report it. But knowing that Ms. Druckemiller was willing to steal from her—a friend—Ms. Frederick had a duty to the taxpayers to report the matter to Mr. Gastesi so that Ms. Druckemiller's handling of public money and public property could be painstakingly monitored. Ms. Druckemiller was a department head, and as her direct supervisor Ms. Frederick knew very well the authority Ms. Druckemiller had over county property. If a person is capable of stealing from a friend, what is stealing from the public in comparison? In light of what she knew, Ms. Frederick's failure to protect the public from Ms. Druckemiller is more than willful blindness—it is inexcusable inaction in the face of knowledge of Ms. Druckemiller's dishonesty—and in our view warrants her dismissal.

Of the county employees who purchased items from Lisa Druckemiller, Henry ("Hank") Kokenzie merits special mention. Mr. Kokenzie worked in the Technical Services Department and was personally responsible for maintaining the database created in response to the clerk's 2010 audit. This database proved to be woefully inadequate to track and account for county-purchased iPhones. The clerk's 2012 audit will detail its manifold deficiencies. More importantly, Mr. Kokenzie is conversant with information technology—it is his job, after all—and thus of all the people who bought cheap iPhones and iPads, he is the one who should have been most skeptical of Ms. Druckemiller's explanations. For example, he stated Ms. Druckemiller told him the iPads included six months of free service. That is an uncommon benefit, yet he apparently accepted it unquestioningly. Furthermore, Mr. Kokenzie knew the county's AT&T representative—the source of the supposed discount. Yet Mr. Kokenzie never asked the AT&T representative, even in passing, about how such a great deal was available. But instead of sounding the alarm, he paid Ms. Druckemiller more than \$1000 in cash for three iPads and an iPhone. For someone with his knowledge and experience, this is the zenith of willful blindness. His conduct merits particular condemnation.

We believe that among the other county employees who took advantage of cheap iPhones from Lisa Druckemiller, Tina Boan and Alexsondra Leto merit censure. Both bought multiple iPhones under circumstances that should have raised questions about the propriety of the sales. (To her credit, Ms. Boan wrote a check for one of the phones she purchased.) Like Ms. Druckemiller, they are senior managers who not only should have known better but should set a high standard for their subordinates when it comes

to obtaining benefits by virtue of their public positions that are unavailable to the public at large.

We would be remiss if we failed to point out that in 2010 the Monroe County Board of County Commissioners was aware that Mr. Gastesi had elected to reject the auditors' recommendation to institute a separation of duties regarding county cellular phones. We recognize the county commission cannot—and should not—micromanage the decisions of the administrator. Nevertheless, if the commission becomes aware the administrator has chosen to reject well-reasoned recommendations designed to improve accountability over public property, we believe the commission should require an explanation from the administrator why the recommendation is either unnecessary or unsound. Mr. Gastesi's response to the 2010 audit recommendation simply states, "The County Administrator is satisfied with the distribution of responsibilities with regards to cellular telephones."<sup>25</sup> In our view, this is an inadequate explanation why the recommendation was rejected. Audits such as the one conducted in 2010 are not routine, and they deserve meaningful scrutiny by the county commission. We think simply providing a copy of each audit to the members of the county commission is insufficient. In order to fulfill its oversight responsibility for decisions made by the county administrator in response to audit recommendations, we believe the commission should, as a matter of routine, place such audits on its agenda for review and public discussion. That would ensure that audit recommendations—and the administrator's responses thereto—will receive meaningful attention by the county commission, which has ultimate responsibility for the efficient operation of county government and the safeguarding of county property.

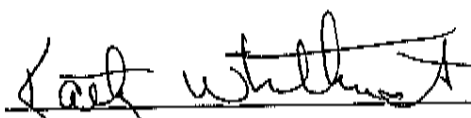
We wish to acknowledge County Mayor David Rice for purchasing his iPad at full price, with a credit card, and paying sales tax. We wish other county employees had been as prudent as Mr. Rice in their dealings with Ms. Druckemiller.

Finally, we wish to commend Investigator Christopher Weber of the State Attorney's Office for his diligent investigation of this matter. We also wish to thank the members of the clerk's Internal Audit Department for their thorough examination of the operational deficiencies of the Technical Services Department, both in 2010 and 2012.

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<sup>25</sup> Letter from Roman Gastesi, County Administrator, to Danny L. Kolhage, Clerk of the Circuit Court, dated April 1, 2010, and attached to the final audit report as Exhibit C.

SO SAY WE ALL,

  
KATHY WHITEHURST  
FOREPERSON