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October 14, 2016

Honorable Toni Preckwinkle
and Members of the Board of Commissioners
of Cook County, Illinois
118 North Clark Street
Chicago, Illinois 60602

Re: Independent Inspector General Quarterly Report (3rd Qtr. 2016)

Dear President Preckwinkle and Members of the Board of Commissioners:

This report is written in accordance with Section 2-287 of the Independent Inspector General Ordinance, Cook County, Ill., Ordinances 07-O-52 (2007), to apprise you of the activities of this office during the time period beginning July 1, 2016 through September 30, 2016.

OIIG Complaints

The Office of the Independent Inspector General (OIIG) received a total of 96 complaints during this reporting period.[1] Please be aware that 21 OIIG investigations have been initiated. This number also includes those investigations resulting from the exercise of my own initiative (OIIG Ordinance, Sec. 2-284(2)). Additionally, 37 OIIG case inquiries have been initiated during this reporting period while a total of 157 OIIG case inquiries remain pending at the present time. There have been 2 matters referred to management or other enforcement or prosecutorial agencies for further consideration. The OIIG currently has a total of 34 matters under investigation. The number of open investigations beyond 180 days of the issuance of this

[1] Upon receipt of a complaint, a triage/screening process of each complaint is undertaken. In order to streamline the OIIG process and maximize the number of complaints that will be subject to review, if a complaint is not initially opened as a formal investigation, it may also be reviewed as an "OIIG inquiry." This level of review involves a determination of corroborating evidence before opening a formal investigation. When the initial review reveals information warranting the opening of a formal investigation, the matter is upgraded to an "OIIG Investigation." Conversely, if additional information is developed to warrant the closing of the OIIG Inquiry, the matter will be closed.

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report is 31 due to various issues including the nature of the investigation, availability of resources and prosecutorial considerations.

OIIG Summary Reports

During the 3rd Quarter of 2016, the OIIG issued 19 summary reports. The following is a general description of each matter and whether an OIIG recommendation for remediation/discipline has been adopted, if applicable, due to the time period permitted for corrective action. Specific identifying information is being withheld in accordance with the OIIG Ordinance where appropriate.

IIG14-0492. In this matter, the OIIG received a complaint from the owner of a retail food/liquor store regarding a Cook County Department of Revenue ("DOR") field investigations supervisor. The owner alleged that during a controlled purchase of suspect illegal cigarettes conducted by the supervisor at the premises, the supervisor elbowed and pushed a store manager and placed his foot inside an open safe as she attempted to close the safe door where the supervisor believed illegal cigarettes were contained. It was also alleged that the supervisor attempted to bribe the manager from reporting the incident by offering to remove one of the four violations found during the DOR site inspection.

Based on the preponderance of the evidence obtained during this investigation, the allegations were not sustained. We determined that the subject store was not unfairly targeted or treated differently than other site inspections conducted by the DOR. Although it appears that minimal contact did occur, the proof as to battery of the store manager by the DOR supervisor was inconclusive. Likewise, we determined that no DOR policies or procedures in force at the time of the incident were circumvented by the DOR investigators involved in this DOR operation. Nor was it found that the DOR supervisor offered to retract an issued citation in exchange for the manager not reporting the incident occurring at the safe. A fourth citation, a sanction for the selling of illegal cigarettes, was not issued because the controlled purchase of illegal cigarettes by the DOR supervisor was not, in fact, completed. Nonetheless, this case highlights a potential liability to the County resulting from physical contact of any nature between citizens and DOR investigators in addition to compliance issues with current federal and state search and seizure mandates regarding the use of force during a site inspection of this nature. Therefore, we recommended that the DOR create and implement specific policy and procedures regulating the actions of DOR investigators in these circumstances. These recommendations are currently pending.

IIG15-0106. This investigation involved a Post-SRO complaint filed pursuant to the *Supplemental Relief Order for Cook County* ("SRO") entered in connection with the *Shakman v. Cook County,* 69 C 2145 (N.D. Ill.) litigation. The complainant, a nurse at the Cook County Health and Hospitals System (CCHHS), alleged that she was asked to take on significant additional duties several years ago but was not paid any additional compensation. During that period, the complainant applied for a higher level nurse position but was not selected.

Eventually, in 2014, the complainant was promoted to the higher level nurse position and now seeks compensation for the years in which she had taken on the additional duties prior to her promotion.

The facts developed during the course of this investigation do not support the conclusion that impermissible political factors were considered in determining compensation for the complainant. Specifically, there was no evidence of any political motivations by the decision makers but rather the decision appeared more likely based on budgetary restraints, personality conflicts, and an attitude of mind among upper level management that interim pay when acting-up is something not afforded to those below a certain level in the organization. Even if the complainant had been able to provide evidence that impermissible political factors were considered, her claim would have been time barred in any event under the terms of the SRO as her claim was brought well past the limitations period provided therein.

IIG15-0130. The OIIG opened this investigation after receiving a complaint asserting that a contractor for Cook County Health & Hospitals System ("CCHHS") failed to utilize its Minority Business Enterprise ("MBE") subcontractor. The contract at issue was a five year multimillion dollar contract to provide various hospital services. The contractor committed to utilizing the MBE in an amount equal to 15.5% of the contract.

Based on the preponderance of the evidence developed during the course of this investigation, this office determined that the subject contractor failed to comply with the applicable Letter of Intent and carry out its MBE commitments. The contract included a mutually approved Letter of Intent that specified a commitment of 15.5% to the MBE which was not honored. The subject contractor then failed to cure its default upon notice. The OIIG commends the efforts by the Contract Compliance Officer assigned to CCHHS to resolve the underutilization of the subject MBE by issuing a notice of default and imposing a monetary penalty in the amount of 15.5% of the contract amount. The subject contractor has also been advised that if it is unable or unwilling to cure its MBE obligations, CCHHS will move to declare the contractor ineligible to contract with any County entity for a period of two years in accordance with the code.

IIG15-0227. The OIIG opened this investigation after observing an online news article with a headline that read: "Is Stroger Hospital in Chicago Selling Aborted Babies' Body Parts? Pro-Life Group Seeks Info." This article reported that "[s]ince 1992, the publicly-funded Stroger Hospital has been doing abortions and now their name has appeared in the ["undercover"] video with Planned Parenthood's Medical Director . . . explaining how the abortion giant sells body parts of aborted babies." The OIIG located and reviewed the referenced video and its related transcription, which implied that fetal tissue from surgical abortions ("surgical ABs") might be obtained from Stroger Hospital. The OIIG subsequently sought to review the fetal tissue handling process at the hospital, as well as to determine if the hospital was in contravention with any provisions of 42 U.S.C. § 289g–2 (Prohibitions regarding human fetal tissue).

The OIIG researched the hospital policies addressing the handling and disposal of fetal tissue from surgical ABs (also referred to as "products of conception" (POC)) and determined that tissue from all surgical procedures performed at the hospital is required to go to the Department of Pathology ("Pathology"). After Pathology has conducted their tests of POC tissue samples, the remaining unused tissue is required to be disposed of by Pathology using biohazard containers that are picked-up by the hospital's biohazard disposal contractor. Interviews were conducted of Pathology personnel and observations were made of the tissue handling and disposal process. It was determined that once the fetal tissue reached Pathology's "Gross Room" for examination and was immersed in "formalin," the tissue lost its desirability in terms of stem cell research (due to the toxicity of the formalin and its detrimental effects on the cells).

After reviewing the Pathology Department's activities, it became apparent that if there were an opportunity for diversion of POC, it would likely be during the time immediately after the surgical AB was performed in the clinic, but prior to the POC reaching Pathology's Gross Room and being placed in formalin. In order to determine if there was any indication of POC diversion, the OIIG planned to assess the handling of all POC obtained from surgical ABs during the first seven months of 2015. This assessment was to include obtaining data from the Division of Family Planning (i.e., medical record numbers) of individuals who had surgical ABs during that timeframe, and comparing that data to the data of the Pathology Department reflecting the receipt of patient POC. Any discrepancies in the data (e.g., Family Planning data recording the performance of a surgical AB, but no corresponding data in Pathology reflecting the receipt of POC) would result in further investigation to determine if the tissue may have diverted. A finding of no discrepancies in the data would provide some assurance that diversion had not occurred during the assessment period.

In order to obtain the medical record numbers needed for the assessment, the OIIG submitted a formal request for medical record numbers to CCHHS as required by the Health Insurance Portability and Accountability Act (HIPAA). CCHHS subsequently denied the OIIG's request based upon its position that the OIIG is not an entity authorized under HIPAA to receive protected health information (PHI). This precluded the OIIG from completing its fetal tissue diversion detection assessment. In order to resolve the disagreement on this legal issue, CCHHS suggested obtaining a formal opinion from the Office of Civil Rights at the U.S. Department of Health and Human Services regarding whether the OIIG may receive the subject medical record data. The OIIG has agreed to pursue this option in an attempt to resolve the issue.

IIG15-0234. The OIIG received an anonymous complaint alleging that a doctor misused and falsified his time records and worked a second job in addition to his CCHHS employment. During the conduct of the investigation another issue surfaced which became the focus of the investigation when the initial allegations were discounted. The new issue concerned how the subject doctor accounted for his time during a 10-day leave of absence allegedly taken for purposes of Continuing Medical Education (CME). On that issue, the evidence showed that the subject doctor failed to adhere to the requirements of the Illinois Administrative Code by failing to keep records of the CME training he allegedly took during the leave of absence. The doctor was not able to recall or provide documentation demonstrating the number of hours he devoted

to the 10 days of CME leave nor was he able to identify the medical articles/research he reviewed. The doctor was not able to provide documentation or other proof that he accessed public medical websites because the websites he accessed did not require the establishment of a user account/user ID to access the programs. Moreover, he asserted that his private computer's malware deleted his browser history. However, Section 1285.110 of the Illinois Administrative Code addressing Continuing Medical Education mandates that physicians document and provide dates and descriptions of activities for any informal CME programs or activities. The fact that the doctor did not do this puts him in violation of the Code and also in violation of CCHHS Personnel Rule 8(c)(14) which requires CCHHS employees to complete records required to be completed in conjunction with their duties. (Because he failed to maintain the requisite records, we carefully considered the possibility that the doctor failed to complete any CME during the subject 10 day CME leave period and used his leave for personal reasons, but the evidence developed failed to meet the burden of proof employed in OIIG investigations.) The OIIG recommended the imposition of appropriate discipline on the subject doctor and the creation of policies regarding CME leave and documentation for such activities.

IIG15-0308. This investigation was initiated in response to a citizen complaint alleging harassment, intimidation, and misconduct by a Forest Preserve District (FPD) Officer during a traffic stop. The investigation consisted of interviews with the complainant, the FPD Police Department Commander, and an FPD Sergeant, as well as review of the Illinois Criminal Code, the Cook County Personnel Rules, the FPD Human Resources Personnel File, and FPD policies and procedures. The evidence developed during the course of this investigation failed to corroborate the allegations of officer harassment and intimidation. Additionally, the evidence failed to support the allegation that the subject officer failed to follow department policy. That is, the officer properly exercised his authority to stop the subject vehicle upon observing a violation of the Illinois Vehicle Code and adhered to then existing protocols and direction from his supervisor regarding his interaction with the complainant regarding her identification and proof of insurance. Accordingly, the allegations were not sustained.

IIG15-0314. The OIIG opened this investigation after receiving a complaint that a high ranking official in the Cook County Department of Animal and Rabies Control ("Animal Control") made a misrepresentation to the Board of Commissioners during a Board committee meeting that Animal Control requires its shelters to have a veterinarian on staff twenty-four hours, seven-days a week ("twenty-four seven vet care"), when it actually does not. The complaint alleged that the contracted Cook County animal shelter does not have veterinarians on staff twenty-four seven, contradicting the subject official's declaration that Animal Control requires its facilities to provide twenty-four seven vet care. In order to evaluate the allegation, this office interviewed an Animal Control officer, the subject Animal Control official and the Director of the contracted Cook County animal shelter. This office also reviewed the testimony given by the high ranking Animal Control official to the Board of Commissioners in the relevant Finance Committee meeting, the County's contract with the animal shelter, the Animal Control Ordinance and the Cook County Ethics Ordinance.

Based on the preponderance of the evidence developed during the course of this investigation, the OIIG has determined the subject official did not violate her fiduciary duty to the County when she stated to the Board of Commissioners that Animal Control requires twenty-four seven vet care. Although both the Animal Control Ordinance and the County contract lack reference to a twenty-four seven vet care facility, we believe the subject official satisfactorily explained that her department requires that the County contract with twenty-four seven on-call vet care facilities in order to ensure the highest level of care for the animals and to prevent a sick or injured animal from suffering for an extended period of time without proper medical treatment. Section 2-571of the Cook County Ethics Ordinance mandates that officials and employees owe a fiduciary duty to the County and the Board at all times in the performance of their public duties. This office determined that the subject official upheld her fiduciary duty to the Board and did not make a misrepresentation. This office determined that the phrases "on-call" and "twenty-four seven vet care" are ambiguous and subject to multiple interpretations. In order to avoid any future misunderstandings and to create full transparency, this office recommends that: (1) Animal Control create an agreed upon definition for the phrase "on-call" and an agreed upon definition for the phrase "twenty-four seven vet care;" (2) Animal Control consider adding the agreed upon definitions of the phrases to the Animal Control Ordinance; and (3) Animal Control consider adding written specifications in its contracts with animal shelters regarding the Department's requirements for twenty-four seven vet care by on-call service.

IIG15-0318. This matter was initiated upon an anonymous allegation involving multiple issues. Because CCHHS internally addressed several of the allegations presented, this investigation focused only on whether the subject contract employee inappropriately influenced the CCHHS contracting process for the benefit of the contract employee's former employer. Based the preponderance of evidence developed in the investigation, the allegation of improper influence is not sustained. The process of contract approval, which included the Supply Chain Management (SCM) Director reviewing contracts before they were submitted to the CCHHS Board of Directors for their review and approval, stands to foreclose the type of influence asserted. While we are mindful of the potential for indirect influence occurring, this is unlikely because of the layers of oversight and lack of any information suggesting its occurrence. Rather, this allegation appeared to have originated from a disgruntled employee whose position was eliminated due to a reorganization.

IIG15-0359. The OIIG was contacted by the Chicago Police Department which reported the alleged theft of a gold ring from a deceased individual while present at the Medical Examiner's Office (MEO). This complaint originated from the wife of the decedent who alleged that on December 8, 2015 her husband passed away and, at the time of his transport to the Medical Examiner's Office, was wearing his gold wedding ring. The decedent's wife subsequently contacted the funeral home regarding the ring and was informed that the ring was not in its possession because the MEO had not provided the ring when the decedent left the MEO. In the course of this investigation, an additional allegation was made concerning the reliability of the MEO's property tracking software, Lab Lynx. During the course of this investigation, the OIIG Investigators interviewed a former Deputy Chief Medical Examiner, a Registered Health Information Administrator, an Intake Supervisor and an IT Administrator for

the MEO. Investigators also reviewed photographs from the Intake Unit and reviewed the functionality of the Lab Lynx database.

The subject allegation was not supported by the evidence developed. The decedent's ring was appropriately being held by the MEO and was subsequently released to the funeral director for return to the family following the director's execution of a waiver. Moreover, to the extent the MEO inventory system failed to properly record property inventory, it was caused by the omission of staff to properly enter data into Lab Lynx. MEO management is aware of this vulnerability and the need to train staff in the operation of the system. Therefore, no further recommendations for remedial action are warranted.

IIG16-0009. This office received a complaint regarding the acquisition and handling of dogs within the Cook County Sheriff's Canine Unit. A Deputy Sheriff was accused of abusing dogs within the Canine Unit and of accepting illegal remuneration (kickback) for acquiring Canine Unit dogs from a specific kennel. The OIIG initiated this inquiry to ascertain the validity of those allegations. The preponderance of the evidence developed by this office failed to support the allegation that the subject either engaged in canine abuse or received money from the subject kennel. The medical records provided for the various canines support the subject's statements as to the treatment of the animals. Nowhere in any of the canine medical records was it noted that a dog was abused, suspected or alleged to have been abused. Rather, the records contradict the allegations of abuse and the accusation that the subject canine suffered herniated discs from abusive treatment. According to the veterinarian records, the dog was euthanized due to a cancer diagnosis and other maladies. Additionally, there is no credible evidence that the subject received any unlawful remuneration for patronizing the subject kennel. The evidence supports the conclusion that the subject Deputy Sheriff followed standard procedures and practices for locating, evaluating, and purchasing the dogs. This information was also corroborated by other witnesses in addition to the documentation related to the purchases. Accordingly, the allegations are not sustained and no further remedial action is recommended.

IIG16-0025. This office received a complaint that a high level employee of a Forest Preserve District field office harassed a community service worker assigned to that facility. The OIIG initiated this investigation to ascertain the validity of the complaint. The investigation consisted of reviewing the allegations of the complaint, interviewing the subject employee, reviewing records regarding the complainant (who choose not to cooperate after making the initial complaint), reviewing telephone records of the subject employee, as well as reviewing other FPD records and conducting additional interviews.

Insufficient evidence exists, based upon a preponderance of evidence, to conclude that the subject official engaged in harassment of the complainant. This conclusion is based, in part, on the failure of the complainant to provide a statement to this office. However, the preponderance of the evidence developed in this investigation supports the conclusion that the subject employee provided false statements to OIIG investigators during his OIIG interviews. On repeated occasions, the subject employee told OIIG investigators that he never called the complainant and never provided her with his cell number. He stated that he never used his

personal cell phone for work purposes and never called a community service worker on his personal cell phone. He also stated that he had never given any of his personal numbers to a community service worker and would never give them to a community service worker. The employee further clarified that he had never called a community service worker outside of his business hours or on his days off. However, all of these statements were contradicted by his own phone records which document 17 contacts between his personal cell phone and the complainant's phone. The employee also stated he never went home during his work shift. The vehicle activity report for his assigned vehicle discredited this statement because the report documents the subject vehicle parked directly behind the employee's home for approximately 22 minutes on a material date in question.

The false and misleading statements provided by the employee to the OIIG regarding his contacts with the complainant and decision to drive his assigned vehicle to his home during business hours were willfully designed to misrepresent factual information and stand in direct violation of the Independent Inspector General Ordinance. *See* Code of Ordinances, Cook County, Illinois ch. 2, art. IV, sec. 2-285 (a) and (b) and 2-291(b)(1) (2007) (cooperation – false statements). Violations of these sections subject an employee to disciplinary action, up to and including discharge. Section 2-291(b)(1). The employee was well aware of the seriousness of his decision to provide the false information. Before his first OIIG interview on March 14, 2015 and again before his second interview on June 7, 2015, an OIIG *Warning of Rights and Duties to Employee – Compulsory Interview* form was presented and read aloud to him by OIIG investigators. The warnings specifically admonish the interviewee of the duty to cooperate as an employee of the FPD and that the failure to answer all questions truthfully can subject the employee to discipline up to and including discharge. The evidence demonstrated that the subject employee provided false and misleading statements to the OIIG in violation of Section 2-285 of the OIIG Ordinance, as well as Personnel Rule 8.03(b)(13)(violation of ... ordinances enacted by the Board of Commissioners), a major cause infraction. Due to the serious and willful nature of the misconduct, we recommended that the employee's employment with the Forest Preserve District be terminated and that he be placed on the District's *Ineligible for Rehire List*. The FPD adopted the OIIG recommendations but the subject employee resigned prior to his disciplinary hearing. The FPD has placed the subject on its *Ineligible for Rehire* list and notified the former official that he is ineligible to be rehired for at least five years.

<u>IIG16-0048</u>. The OIIG learned the former Kendall County Coroner provided a Kendall County Coroner's badge and volunteer opportunities to a Cook County Medical Examiner's Office (MEO) employee's wife in exchange for what the Kendall County Coroner described as future favors. The OIIG initiated this investigation to ascertain if there was an abuse of office by the subject MEO employee in violation of the Cook County Ethics Ordinance. During the course of this inquiry, OIIG investigators reviewed news reports concerning the allegations, audio recordings made in the Kendall County Coroner's building, in addition to analyzing personal and work related phone records and email records of the MEO employee. The subject MEO employee was then interviewed.

The preponderance of the evidence developed in this investigation failed to support the conclusion that the MEO employee abused his office. The evidence gathered by the OIIG did not reveal any inappropriate contact between the Kendall County Coroner and the MEO employee. There is no credible evidence the employee used improper influence or otherwise used his position to grant or obtain special favors on behalf of himself or his wife or that a conflict of interest existed in these circumstances. In sum, the evidence fails to demonstrate that the MEO employee violated the Cook County Ethics Ordinance. Accordingly, the charges set forth above were not sustained.

IIG16-0092. The Office of the Cook County Comptroller informed the OIIG of a possible forgery of a Cook County check in the amount of $550.80 that was addressed and made payable to a Chicago-based vendor. The investigation revealed that the check was intended for a different vendor but was inadvertently deposited into the account of another. The mistake was corrected and the funds returned to Cook County by deposit into an account held by Cook County. Based on all of the foregoing, no further recommendations were offered.

IIG16-0124. This investigation was initiated following the receipt of a complaint alleging that a Bureau of Technology (BOT) employee was engaged in outside employment during business hours in the real estate industry in Chicago and failed to report this outside employment pursuant to the Cook County Personnel Rules and the Cook County Ethics Ordinance. The investigation consisted of an interview with the subject, as well as review of the Personnel Rules, the Ethics Ordinance, the Personnel File of the subject, a LexisNexis public records search, review of the Illinois Department of Financial and Professional Regulation records, a LinkedIn profile search, as well as internet name searches. This inquiry failed to reveal any information to support the allegations or tend to indicate that the subject has ever worked in the real estate industry. Therefore, based on the foregoing information, the allegations are not substantiated and no recommendation for remedial or corrective action is warranted.

IIG16-0131. The OIIG received an anonymous complaint alleging that the Department of Facilities Management (DFM) was in the process of needlessly purchasing hand-held computers for all tradesmen and engineers to enable the department to electronically track work orders. This new system would replace the paper-based work order system currently being used. The complainant noted that the tradesmen assigned to court and hospital facilities were previously issued hand-held computers although they were never put into use. The complainant asserted that the hand-held computers being purchased now would likewise not be fully utilized. The preponderance of evidence developed during the course of this investigation failed to support the conclusion that DFM is embarking on a wasteful venture. DFM's work order system will be paper-based until the new work order system is implemented in December 2016. Accordingly, the allegations are not sustained.

IIG16-0164. This office received a complaint that a Forest Preserve District (FPD) employee using a white FPD pickup truck delivered four large concrete blocks to a private business. Although some factual discrepancies exist in the statements obtained in the course of this investigation, the totality of the evidence developed reveals a clear view of what transpired.

The concrete blocks or wheel stops were intended to prevent unauthorized access onto the FPD property by vehicles associated with a private business. The blocks had been erroneously placed on the adjacent private business property and were subsequently returned to the proper FPD location. The evidence fails to support the conclusion that FPD employees engaged in wrongdoing. Based on all of the foregoing, the allegation is not sustained and no recommendations for remedial action are warranted.

IIG16-0173. On June 20, 2016, OIIG received a proposed modification to the minimum qualifications for the CCHHS Direct Appointment position of Privacy Officer. The OIIG approved the proposed modification on June 24, 2016. On August 1, 2016, the OIIG received a hiring packet indicating CCHHS had selected a candidate for the position. During the routine screening of the proposed hiring sequence, this office noted the hiring packet had several documents bearing dates indicating the candidate had been selected for hire several months prior to the June 20th proposed modifications to the job description. The candidate's qualifications were such that she would not have met the minimum qualifications under the prior job description in effect at the time of her recruitment. Because the evidence strongly suggested the job description was modified in order to facilitate the hire of the particular candidate, the OIIG investigated further. The investigation revealed that senior CCHHS staff, after recruiting the candidate and offering her the position, realized that the selected candidate did not meet the minimum qualifications of the job description. The senior staff in addressing the matter disregarded the applicable provisions of the CCHHS Employment Plan and instead acted to modify the job description in a manner which they believed would permit the hire of the already selected candidate. This not only constituted a violation of the Employment Plan but also failed to adhere to the principles of the SRO in promoting transparency in the hiring process. Historically, manipulating job descriptions to benefit pre-selected candidates has been a tool used to circumvent protocols to further political or other self-interests. This office recommended that CCHHS stress the importance of analyzing the language of job descriptions before recruitment efforts are initiated, that the CCHHS Employment Plan be amended to require CCHHS to provide the OIIG all hiring packet materials for all proposed Direct Appointments at least 10 business days in advance of any appointment (this is the current practice followed by CCHHS with the addition of a 10-day review period), and that CCHHS comply with the Employment Plan by ensuring that all proposed changes to the Direct Appointment List, including changes to job descriptions, be accompanied by a description of the basis for proposed changes.

IIG16-0179. This office received information that in June of 2016 a *Shakman* compliance officer for the Recorder's Office departed the Office of the Recorder of Deeds during regular work hours to attend an event at St. Bernard's Hospital, Chicago, Illinois. Accompanying the official was another high ranking official from the office. They drove to and from the event in a Recorder vehicle being driven by another employee. The event consisted of a ribbon cutting ceremony at the hospital which was attended by politicians at both the local and national level. Because this information raised concerns regarding potential unlawful political activity, this office opened an investigation.

The *Supplemental Relief Order* (SRO) was issued by the District Court and agreed to by the parties in order to ensure the Office of the Recorder of Deeds turns away from its troubling history of political patronage. The establishment of the position of compliance officer, the mission of which is to ensure transparency and adherence to the *Employment Plan* and the principles of the SRO, has been an important part of the effort to transform the Recorder's Office. A prime function of a compliance officer is to establish trust among the rank and file employees to ensure their complaints will neither go unheard nor lead to retaliation. The language from the job description for the position states:

> Applicant must not have had any prior familial, personal, professional or volunteer relationship or affiliation with any current Recorder employee holding a position at Grade 16 or above. Applicant … must not have participated in any prohibited political activities as defined in Section 2-561 of the Cook County Ethics Ordinance at any time.

The purpose of this requirement was not merely to avoid the hire of a compliance employee with a political affiliation with the Recorder, but also to ensure that no other special relationship exists that could foster mistrust and the lack of confidence by rank and file employees in the compliance office. The development of trust and confidence is critical to the effectiveness of the compliance position. Without it, rank and file employees would reasonably stay silent when confronted with SRO violations for fear of retaliation or simply due to a sense of apprehension or futility. Even the mere appearance of political activity or other special alignment between officials and a compliance officer must be avoided. That is, if rank and file employees became aware that an official and a compliance official attended an event of this nature together, we believe that those employees would reasonably conclude that the compliance official is not sufficiently independent to warrant their trust. Therefore, all measures necessary to avoid even the appearance of impropriety should be taken by both compliance officials and other high level officials in the Recorder's Office.

We do not believe that this event was a political event as defined by the Cook County Recorder of Deeds Policy Manual. Accordingly, we do not find that unlawful political activity occurred in these circumstances. However, we believe that such community events are also unquestionably political opportunities, at least in part, as evidenced by the attendance of the high ranking official in the Recorder's office and other elected officials attending.

Our central concern is how this set of circumstances would be viewed by staff in the Recorder's Office and that they would think the compliance official is an arm of the Recorder lacking independence. The failure to see this appearance of impropriety before attending the event was a mistake. As such, we believe that the spirit of the SRO has been violated.

Based on all of these concerns, we recommended:

a. That the Recorder request the subject compliance officer to refrain from engaging in outside personal, social or other non-work related events and activities with Recorder personnel;
b. That Recorder officials be mindful of the considerations and circumstances outlined and avoid recurrences of situations which create the appearance of impropriety or otherwise undermine the confidence of rank and file staff in the independence of the compliance staff; and
c. That the Recorder administer a protocol that, outside the normal course of required employment training, reiterates and emphasizes to all staff that retaliation is prohibited against anyone who reports any SRO or Employment Plan concerns to the Recorder, the Director of Compliance, the Recorder Compliance Administrator or the OIIG.

IIG16-0207. This matter involves a compliance review conducted in relation to the Illinois Governmental Ethics Act, 5 ILCS 420/1-101 *et seq*. (2005) (the "Ethics Act"). Under the Ethics Act, Cook County supervisors and managers have a statutory obligation to file a Statement of Economic Interest (SEI) with the Clerk's Office listing any financial interest they have with units of government. Those Cook County employees who are subject to this provision of the Ethics Act are required to file a SEI with the County Clerk's Office by May 1st of each year. *See* 5 ILCS 420/4A-105. Under the statute, a person who fails to file a SEI is subject to a $100 per day fine. Moreover, employees who persist in failing to comply may forfeit their positions with Cook County government as an additional sanction pursuant to the Ethics Act.

As a threshold matter, the Ethics Act requires local units of government to submit lists of those employees who must file a SEI each year on or before February 1st. *See* 5 ILCS 420/4A-106. In practice, department heads in Cook County government are typically held responsible for submitting lists of their employees who are subject to the Ethics Act by the statutorily imposed deadline. Based on records retrieved from the Clerk's Office, Cook County government submitted lists that imposed an obligation on 2,043 employees and board members to file a SEI for the 2016 filing period.

Since the 2010 filing period, the Cook County Clerk's Office has notified this office when Cook County employees failed to annually file a SEI pursuant to the Ethics Act. In those instances, we have committed resources to ascertain the reasons for non-compliance and pursued corrective action for those who failed to file. During the course of our investigations, there where annually 20-30 Cook County employees who failed to file a SEI.

The Clerk's Ethics and Campaign Disclosure Division is responsible for notifying Cook County employees of their SEI filing obligation. The Customer Service Manager in the Ethics and Campaign Disclosure Division informed us that they started contacting Cook County employees in March 2016 to remind them of their SEI filing obligation for the May 1, 2016

filing period.[2] In total, there were seven "mass emails" sent to Cook County employees who were subject to the Ethics Act and required to file a SEI.

Starting on April 19-22, 2016, our office notified 43 Cook County government department heads, boards, and separately elected officials of the May 1st deadline and encouraged them to implement a control measure within their respective departments to ensure employees subject to the Ethics Act comply before the deadline. The Office of the Cook County Auditor ("OCA") also performed a SEI compliance review.

On May 5, 2016, our office received a report of Cook County employees (including boards and commissions) from the Clerk's Office listing those who failed to comply with the SEI filing requirement for the 2016 filing period deadline. There were 45 Cook County employees who appeared on this list of non-filers.

On June 21, 2016, the OCA issued a report stating that 22 County employees were non-compliant as of May 1, 2016. The OCA's report was appropriately adjusted for employees on leave or who no longer held Cook County employment.

Pursuant to the Ethics Act, the Clerk's Office subsequently issued certified letters to those County employees subject to the filing requirement who had yet to file a SEI. *See* 5 ILCS 420/4A-106. Additionally, our office sent 14 letters to department heads with employees who were deemed to have failed to file a SEI pursuant to the Ethics Act. In response to our letters, two Cook County government department heads stated that five County employees no longer held employment with the County. Another department head stated that an employee failed to timely file a SEI due to technical difficulties related to email.

Additionally, during our compliance review, we received information from a credible source with intimate knowledge of the internal operations of Cook County indicating that many County employees subject to the Ethics Act are not being reported to the Clerk's Office for SEI purposes. According to this individual, the failure to identify and report all employees subject to the Ethics Act provisions is due to simple oversight. A cursory review of the reporting lists supports the conclusion that employees who meet the reporting criteria are not being reported to the Clerk's Office for SEI purposes.

As of September 2, 2016, there is one Cook County employee who has failed to file a SEI according to the Clerk's Office.

The information developed during the course of this compliance review supports the conclusion that the County has not implemented effective internal controls to ensure that those employees subject to the Ethics Act timely file a SEI on an annual basis. Additionally, we believe that attention should be given to identifying each employee subject to the criteria for

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[2] County clerks have the responsibility for notifying all persons who were identified on a list submitted to them by the unit of government. *See* 5 ILCS 420/4A-106.

reporting, as well as the timely removal of employees when they leave County service or are otherwise not subject to SEI reporting. Accordingly, based upon all of the foregoing, we recommend the following:

- Currently, the Ethics Department's annual training program contains information related to filing a SEI pursuant to the Ethics Act. In addition to this training, the Clerk's Office should consider conducting an annual forum that enables department contacts to learn more about the provisions contained in the Ethics Act.
- Cook County department heads should annually emphasize the importance of the SEI to relevant employees and instruct each employee to comply before the deadline.
- At least 10 days prior to the deadline, department heads should obtain the list of non-filers from the Clerk's Office and directly contact those individuals to ensure they meet their filing obligation.
- We recommend that Cook County offices and departments implement a procedure to identify each employee subject to reporting under the Ethics Act and update the list on a yearly basis. This process should also include the removal of employees who no longer are subject to SEI reporting.

We also recommended that Cook County government continue to support the efforts of the Office of the County Auditor to ensure compliance by the annual deadline. These recommendations have largely been adopted.

Outstanding OIIG Recommendations

In addition to the new cases being reported in this quarter, the OIIG has followed-up on outstanding recommendations for which no response was received at the time of our last quarterly report. Under the OIIG Ordinance, responses from management are required within 30 days of an OIIG recommendation or after the grant of a 30 day extension to respond. Below is an update on these outstanding recommendations.

From the 2nd Quarter 2016

IIG14-0511. In this matter, the OIIG conducted a conflicts of interest risk assessment related to the Zoning Board of Appeals (ZBA). The ZBA is comprised of a Chairman, six Board Members, and two nonvoting ex-officio members (the Chairman of the Zoning and Building Committee of the Cook County Board of Commissioners and the Chief of the Bureau of Economic Development of Cook County) who preside over the variance appeals process in Cook County. Property owners can appear before the ZBA or have legal counsel present their cases. We conducted this risk assessment to determine whether the ZBA has implemented adequate internal controls to provide reasonable assurance that conflicts of interest are timely identified and appropriately managed to ensure fairness in the variance appeals process.

Our review identified voting members whose outside employment is related to real estate matters. One of the members provides architectural and consulting services to clients. Another

member is an attorney who concentrates in real estate matters for developers and other small corporations. There is another member who is legal counsel for a large company that provides a myriad of related consulting services. Because the ZBA does not have any internal policies and procedures for identifying and managing conflicts of interest, there is a cause for concern that potential conflicts of interest could exist undetected and unresolved in connection with the ZBA's variance appeals process.

To address these concerns, we recommended that the ZBA (1) require its voting members to complete a conflict of interest certification form (provided) for each matter before the ZBA, (2) adopt procedures to guide its members in recognizing and addressing potential conflicts, and (3) promulgate rules to alert the Board of Ethics when sitting members are also elected officials so that such members may be added to its routine campaign contribution audits. These recommendations have been accepted by the ZBA.

IIG15-0046. The OIIG initiated this investigation to address repeated incidents of time card fraud by employees at the John H. Stroger, Jr. Hospital of Cook County. The OIIG has conducted numerous time and attendance investigations (time card fraud) involving Cook County Health and Hospitals System (CCHHS) employees at Oak Forest Health Center, Cermak Health Services and Stroger Hospital during the past several years. These time card fraud investigations involved a range of issues from employees swiping in and then immediately leaving to park their vehicles, employees swiping in for others who fail to report for work, employees leaving during the day without authorization, employees swiping in at unauthorized locations in order to avoid tardiness to employees not swiping at all. The subjects of the investigations involved a wide spectrum of positions and departments including a Division Chairman, a physician, a physician assistant, dentists, dental assistants, nurses, administrative assistants/aides, a trades foreman, environmental service employees, laborers and others. In the end, numerous recommendations have been offered though this issue remains a substantial problem that does not appear to have diminished in scope.

Based upon the numerous similar investigations that have been sustained, this office initiated this investigation to determine the scope of the problem and underlying causes. In summary, 70 interviews were conducted with front line employees, timekeepers, supervisors, department heads and personnel from Human Resources and the Payroll Department. Twenty-four informational interviews and 35 subject interviews were conducted with employees suspected of time card fraud based upon data reviewed and surveillance conducted. Eight of the subject employees had past records of excessive tardiness. Admissions were obtained from 14 interviewees, and there was preponderance of evidence that implicated 15 additional employees. This review also cleared six of the employees for various reasons. Several employees admitted to the practice of "drive and swipe" to avoid being tardy. Some of those interviewed claimed to have been doing this for years without being questioned about the practice. One employee claimed his supervisor authorized his employees to swipe in before parking their vehicles if they believed they were going to be late for work. Other employees acknowledged taking time to eat their breakfast after swiping in at the beginning of their scheduled shift. The results of this review and those of prior time card fraud investigations form the basis of our conclusion that a

widespread institutional culture of time card fraud continues to exist. The environment that allowed this custom to develop was caused primarily by a lack of policy enforcement and supervisory oversight.

Numerous recommendations were made including various forms of training and education. The recommendations were made on June 29, 2016 and to date CCHHS has not responded. The complete findings and recommendations are contained in a public statement on this issue which was released on June 29, 2016 and which is available on the OIIG website.

IIG15-0121. The OIIG opened this investigation after receiving information that a Cook County Health and Hospitals System (CCHHS) Technical Coordinator with 26 years of County service was seen on a Saturday morning at approximately 4:30 a.m. loading what appeared to be computer equipment into her car three days prior to her retirement. After the employee's retirement, CCHHS personnel entered her office and observed that it was devoid of the computer equipment they had expected to be present. In response to inquiries by CCHHS management and the Stroger Hospital Police Department (SHPD), the retired employee visited the SHPD with her son and brought with her a computer and a receipt for computer parts. The retired employee maintained that she used her personal charge card to purchase computer parts, had them shipped to her CCHHS office, and then built a computer herself because her County computer was too slow. She also maintained that prior to leaving CCHHS, she had cleaned out her office and discarded what she said were obsolete computers, monitors, and software.

A subsequent OIIG investigation determined that during the year prior to her retirement, the employee had purchased a significant amount of computer hardware and software utilizing CCHHS grant funds thorough the Hektoen Institute of Medicine. CCHHS was unable to account for the whereabouts of the items and Hektoen failed to maintain an inventory of any computer assets purchased with grant funds. The investigation also revealed that three weeks prior to the subject's retirement, the employee purchased an Apple iPad using grant funds and the iPad was unaccounted for by both CCHHS and Hektoen. The OIIG determined that subsequent to the employee's retirement, the missing iPad had communicated via the internet with Apple Inc.'s servers (e.g., connecting to iTunes) using an internet protocol (IP) address that was linked to the former employee as a subscriber of an internet service provider (ISP). A subpoena was issued to the retired employee, after which she retained an attorney who advised that the retired employee would exercise her Fifth Amendment right to remain silent and did not wish to speak to anyone from the OIIG regarding any matter whatsoever. Nevertheless, our office subsequently recovered the iPad from the attorney and returned it to CCHHS. Our office recommended that CCHHS implement various processes to ensure that computer hardware and software is better accounted for and to mitigate potential theft, loss, and diversion in the future. As a result of the employee's theft of the iPad, we also recommended that the former employee be put on the *Do Not Rehire List*. CCHHS has responded by indicating that the OIIG recommendations will be adopted.

IIG16-0036. This investigation was initiated based on a complaint from a vendor asserting that payment relating to educational consulting provided to CCHHS had not been

received despite issuing an invoice. CCHHS subsequently determined that payment had been issued in August 2015 to the subject vendor. Based upon the evidence developed in this investigation, we were able to confirm that on August 4, 2015, the Cook County Comptroller's Office issued a check in the amount of $24,837.50 payable to the vendor. The evidence further supported the conclusion that the subject check was intercepted and the payee information was forged to the name of an account holder and deposited into that person's Bank of America account. No connection between the account holder and Cook County was identified.

This office subsequently referred the findings of this investigation to the U.S. Postal Service. On April 4, 2016, during an interview with the U.S. Postal Inspectors, the suspect admitted to signing and depositing checks from Cook County and others and later withdrawing money reflecting the amounts of these checks from his Bank of America account. On May 17, 2016, the suspect placed himself into the custody of Chicago Police Department and U.S. Postal Inspectors. During an interview, the suspect reiterated his April 4, 2016 admissions to an Assistant State's Attorney, as well as Chicago Police and U.S. Postal Inspection Service personnel. Also on May 17, 2016, he was charged with two counts of theft and two counts of forgery, both of which are felony charges. The OIIG recommended that HHS seek recovery of the stolen funds in the amount of $24,837.50. CCHHS adopted the recommendations.

From the 1st Quarter 2016

IIG12-0234. The OIIG opened this investigation after a complainant provided information regarding an employee in the Office of the Cook County Recorder of Deeds. According to the complainant, the subject employee offered to prepare a false and back-dated quit claim deed in exchange for a cash bribe. OIIG investigators worked with law enforcement and prosecutors who indicted the subject employee for wire and mail fraud. The subject employee resigned her employment with the Recorder's Office during the course of the investigation and eventually pled guilty to one count of mail fraud. We recommended that the Recorder's Office place the subject on its *Do Not Rehire List*. On August 18, 2016, the Recorder's Office issued a letter adopting our recommendation.

IIG14-0368. This investigation was initiated by the OIIG following the receipt of allegations involving a Cook County Health and Hospitals System (CCHHS) employee working outside employment while on FMLA status. The preponderance of the evidence developed during the course of the investigation failed to support the allegation of a dual employment or FMLA violation. Although there was no violation in this case, we recommended that CCHHS consider adopting a policy prohibiting employment during a leave period because of the overall impact the high incidence of FMLA leave participation has on CCHHS operations. This recommendation was made on March 1, 2016 and, to date, we have not received a response from CCHHS.

IIG15-0266. The OIIG opened this investigation after receiving information that an employee at Stroger Hospital had been providing differing answers regarding whether or not she possessed a bachelor's degree when applying for positions with Cook County and the Cook

County Health and Hospitals System (CCHHS). The evidence from the investigation supports the conclusion that the subject employee violated Cook County Personnel Rule 8.03(b)(14) and CCHHS Personnel Rule 8.03(c)(26) by submitting false information on her 2012, 2013 and 2014 employment applications by stating that she possessed a bachelor's degree. We recommended that the subject employee be terminated and that she be ineligible for County or CCHHS employment for a period of five years. CCHHS is currently seeking discipline against the subject employee and has requested an extension as the matter is currently subject to an ongoing disciplinary proceeding. No further information has been received since the last quarterly report.

From the 4th Quarter 2015 or Earlier

IIG15-0278. This office received information indicating that a former employee in the Cook County Bureau of Human Resources (BHR) made various false statements in the course of applying for particular positions within Cook County government by using both factually misleading resumes and false information uploaded to the County's online job application system. The evidence developed during the course of this investigation confirmed the allegations.

We recommended that the County, CCHHS, and the FPD find the subject ineligible for hire for a period of five years pursuant to provisions in their respective employment plans. We made recommendations to the Recorder of Deeds and Sheriff to consider amending their respective employment plans so as to allow further action for violations of this type. We also recommended that all of the involved agencies seek to modify their respective employment plans so as to honor the ineligibility lists of the respective entities. Finally, Article II, Section 44-54(e) of the Cook County Code of Ordinances provides that any person who willfully violates this section shall be fined not less than $100.00 nor more than $500.00 or be imprisoned for not more than six months, or both. We recommended that any department seeking to prosecute the subject for violation of Section 44-54 contact the Cook County States' Attorney's' Office.

These recommendations were originally made on December 23, 2015. The County responded that it will deem the subject employee ineligible for employment for a period of five years. On April 8, 2016, CCHHS adopted the recommendation to place the subject employee on its ineligibility list. On August 29, 2016 the FPD issued a response substantially adopting the OIIG recommendations. We have yet to receive a response from the other agencies regarding our recommendations.

Activities Relating to Unlawful Political Discrimination

Political Contact Logs (PCLs)

In April of 2011, the County implemented the requirement to file Political Contact Logs with the Office of the Independent Inspector General. The Logs must be filed by any County employee who receives contact from a political person or organization or any person representing any political person or organization where the contact relates to an employment

action regarding any non-Exempt position. The IIG acts within his authority with respect to each Political Contact Log filed. From July 1, 2016 to September 30, 2016, the Office of the Independent Inspector General received four Political Contact Logs.

Post-SRO Complaint Investigations

In the last quarter, the OIIG has received no new Cook County *Shakman* Post-SRO Complaints. The OIIG concluded the investigation of one such Complaint and two Complaints are under investigation.

Training

The OIIG continues to collaborate with the Bureau of Human Resources ("BHR") and the Board of Ethics ("Ethics") in a joint project to provide both online and in-person annual training for Cook County employees regarding the Ethics Ordinance, the Employment Plan and Unlawful Political Discrimination. The OIIG continues to assist the above departments in the efforts to test new training modules, alleviate technological challenges which exist in administering training and the reduction of incidents non-compliance.

New UPD Investigations not the result of PCLs or Post-SRO Complaints

Apart from the above PCL and PSRO activity, the OIIG has opened eighteen additional UPD inquiries during the last reporting period.

The OIIG continues to assist and work closely with the embedded compliance personnel in the FPD, CCHHS, Cook County Bureau of Human Resources and the Cook County Recorder of Deeds, conducting joint investigations where appropriate.

Employment Plan – Do Not Hire Lists

The OIIG has finalized its recommendations to both the Cook County and CCHHS regarding final working *Do Not Hire Lists*. The OIIG continues to collaborate with the various Cook County entities and the Cook County Compliance Administrator to ensure the Lists are being applied in a manner consistent with the *SRO* and the County's goal of achieving substantial compliance.

OIIG *Employment Plan* Oversight

Per the Employment Plans of Cook County, CCHHS and the Forest Preserve District, the OIIG reviews, *inter alia*, (1) the hire of *Shakman* Exempt employees, (2) proposed changes to Exempt Lists, Actively Recruited lists, Employment Plans and Direct Appointment lists, (3) FPD employment postings limited to internal candidates and (4) Supplemental Policy activities. In the last quarter, the OIIG has reviewed and acted within its authority regarding:

1. Four changes to the Cook County Actively Recruited List;
2. The hiring of ten *Shakman* Exempt employees;
3. Two changes to the *Shakman* Exempt List;
4. The proposed Direct Appointment of two CCHHS employees;
5. Five actions under the Cook County Employment Plan Supplemental Policies.

Monitoring

The OIIG currently tracks all disciplinary activities in the FPD and offices under the President. In this last quarter, the OIIG tracked (and selectively monitored) 39 disciplinary hearings and related grievances. Further, pursuant to an agreement with the Bureau of Human Resources and with the collaboration of the Cook County Compliance Officer, the OIIG tracks all hiring activity in the offices under the President, conducting selective monitoring of certain hiring sequences therein. Also during the last quarter the OIIG has begun tracking, and selectively monitoring, all CCHHS hiring activity.

Illinois Supreme Court Proceeding Addressing OIIG Jurisdiction

The Cook County Office of the Independent Inspector General ("OIIG") initiated an investigation in 2012 into allegations that an employee in the Cook County Assessor's Office ("Assessor"), who was also an elected official outside Cook County government, had improperly received a homeowner's exemption to which he was not entitled. As part of that investigation, the OIIG requested documents from the Assessor pursuant to the OIIG Ordinance. When the Assessor refused, the OIIG issued a subpoena for the records. The Assessor objected to the subpoena on the grounds that the OIIG only has authority to investigate County government under the Offices of the Cook County Board President and does not have such authority regarding separately elected Cook County officials like the Assessor.

On June 7, 2013, the OIIG filed a two-count complaint against the Assessor seeking (i) a declaration that the Cook County Assessor must cooperate with the OIIG's investigation, and (ii) a finding that the Assessor must comply with the subpoena issued by the OIIG. On August 21, 2014, the Cook County Circuit Court entered an order upholding the jurisdictional scope of the OIIG Ordinance.

The Assessor appealed the decision of the Circuit Court on September 11, 2014 arguing that the authority vested in the OIIG by the Board of Commissioners to issue subpoenas and require officials to cooperate in OIIG investigations was unconstitutional. On December 8, 2015, the Illinois Appellate Court unanimously upheld the OIIG's authority to investigate allegations of corruption in both the Assessor's office as well as the offices of other Cook County officials. Specifically, the Appellate Court held that Cook County Board of Commissioners "validly exercised its home rule powers when it created the OIIG and gave it the power to issue subpoenas to aid in its investigations of allegations that county officers, including

the Assessor, have acted corruptly." *See Blanchard v. Berrios*, 2015 Il App (1st) 142857, para. 18 (December 8, 2015).

The Assessor has appealed the Appellate Court's decision to the Illinois Supreme Court. This matter is fully briefed and oral argument took place before the Court on September 21, 2016. The argument may be viewed on the Court's webpage (http://www.illinoiscourts.gov/Media/On_Demand.asp). The matter has been taken under advisement.

Miscellaneous OIIG Activities

The National Association of Inspectors General held its certification institute in Chicago from July 25 – 29, 2016. Nine investigators from this office attended and received instruction on curriculum for inspectors general investigators. At the conclusion of the institute, the investigators were tested and all successfully completed the course and received professional certification as a Certified Inspectors General Investigator. Currently, 14 members of this office hold this designation.

Thank you for your time and attention to these issues. Should you have any questions or wish to discuss this report further, please do not hesitate to contact me.

Very truly yours,

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