

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT IN AND
FOR LEON COUNTY FLORIDA

GRAND JURY, FALL TERM 2019

**IN RE: YOUTH SERVICE PROVIDERS BEING ALLOWED JUVENILE
CRIMINAL HISTORY INFORMATION**

IN THE NAME OF AND BY THE AUTHORITY OF THE STATE OF FLORIDA

NO TRUE BILL PRESENTMENT

THIS MATTER came before the Grand Jury on October 17, 2019 to review the facts, circumstances, and law concerning an incident occurring in Leon and Gadsden County during the Summer of 2019. Specifically, a juvenile offender, who had a history of sexual abuse of children, and was on court ordered supervision, attended multiple summer camps and neither the providers nor the parents of the other children, were made aware of his status. We have heard the testimony of Assistant State Attorney Eric Trombley, Department of Juvenile Probation Supervisor Rico Cooper, Mr. Phil Smith, and Deputy Secretary of Florida Department of Juvenile Justice Timothy Niermann.

We find as follows:

FACTUAL FINDINGS PRESENTED

In the winter of 2017, a thirteen-year-old juvenile entered a plea to offenses involving the victimization of a six-year-old girl and eleven-year-old boy. He was sent to a juvenile facility followed by probation. He subsequently violated

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that probation and was placed back under closer supervision including electronic monitoring. While on this supervision, his mother received permission from his probation officers to take him to two different youth camps. According to the Department of Juvenile Justice Probation Officer Rico Cooper, youth camp staff were responsible for supervising the juvenile. During these camps, items were stolen from other youth and parents. This led to an investigation of the thefts and the offender was a potential suspect. Part of this suspicion was due to his mother's incomplete account that he had previously been caught stealing and burglarizing cars. The mother of the youth agreed to reimburse some of the losses. At no time, did she inform any of the other parents or youth leaders of the full nature of his criminal history or status.

While investigating the juvenile, it was also revealed that he had been allowed to illegally possess and fire a rifle while participating in camp activities. His mother expressly authorized this activity and supervised him shooting with other youth. The youth was subsequently arrested for the crime of possession of a firearm by a delinquent. He has entered an admission of guilt to this crime.

A subsequent review by the Florida Department of Juvenile Justice found the actions by the probation officer consistent with the law and procedures of the agency. While the officer never knew or consented to the youth's involvement with firearms, he was not authorized to notify the camp, the adult leaders, nor the parents of other youth. The sole responsibility for insuring the safety of the other children fell to the camp staff, who were unaware of his history, and to his mother.

The Law

Florida Law holds that juvenile records are confidential:

Except as provided in subsections (2), (3), (6), and (7) and s. 943.053, all information obtained under this chapter in the discharge of official duty by any judge, any employee of the court, any authorized agent of the department, the Florida Commission on Offender Review, the Department of Corrections, the juvenile justice circuit boards, any law enforcement agent, or any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to information obtained before, on, or after the effective date of this exemption.

(b) Such confidential and exempt information may be disclosed only to the authorized personnel of the court, the department and its designees, the Department of Corrections, the Florida Commission on Offender Review, law enforcement agents, school superintendents and their designees, any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile, and others entitled under this chapter to receive that information, or upon order of the court.

Fla. Stat. Ann. § 985.04 (West)

However, the law also recognizes that essential nature of notifying school employees who have direct contact with the child of the true nature of the juvenile's history.

(4)(a) Notwithstanding any other provision of this section, when a child of any age is taken into custody by a law enforcement officer for an offense that would have been a felony if committed by an adult, or a crime of violence, the law enforcement agency must notify the superintendent of schools that the child is alleged to have committed the delinquent act.

(b) Notwithstanding paragraph (a) or any other provision of this section, when a child of any age is formally charged by a state attorney with a felony or a delinquent act that would be a felony if committed by an adult, the state attorney shall notify the superintendent of the child's school that the child has been charged with such felony or delinquent act. The information obtained by the

superintendent of schools under this section must be released within 48 hours after receipt to appropriate school personnel, including the principal of the school of the child and the director of transportation. The principal must immediately notify the child's immediate classroom teachers, the child's assigned bus driver, and any other school personnel whose duties include direct supervision of the child. Upon notification, the principal is authorized to begin disciplinary actions under s. 1006.09(1)-(4).

(c) The superintendent must notify the other school personnel whose duties include direct supervision of the child of the disposition of the charges against the child.

(d) The department shall disclose to the school superintendent the presence of any child in the care and custody or under the jurisdiction or supervision of the department who has a known history of criminal sexual behavior with other juveniles; is alleged to have committed juvenile sexual abuse as defined in s. 39.01; or has pled guilty or nolo contendere to, or has been found to have committed, a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133, regardless of adjudication. Any employee of a district school board who knowingly and willfully discloses such information to an unauthorized person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Fla. Stat. Ann. § 985.04 (West)

Despite this recognition in the school system, this disclosure is not authorized to other youth care organizations. "Records in the custody of the department regarding children are not open to inspection by the public." Fla. Stat. Ann. § 985.04(7)(a) (West).

CONCLUSION

We find that youth organizations and the people who staff them have an equal duty to protect our children as those in formal school settings. Regardless of the organization, the safety of children in their care is of paramount importance. We have come to understand and accept that parents must release

detailed medical information about their children, including medical waivers with physical examinations, to insure their safety and the safety of others.

Furthermore, there have been numerous examples of alleged concealment of victimization by organizations. Parents are understandably wary of sending their children to activities where supervising personnel cannot be fully informed of the background of the participants, they are responsible for supervising. Legislation has required adult offenders to be registered and are identified in public databases. Not so with juvenile offenders. At the same time, the community is understandably concerned that the truth about historical victimization will not be revealed candidly.

We also understand the compelling interest in not ostracizing children due to their delinquent behavior. We believe that a balance can be struck, and we thank the Florida Department of Juvenile Justice for their leadership in creating such balance.

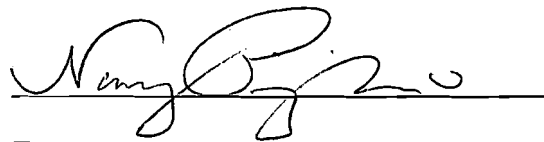
In order to both comply with Florida law and to allow parents and youth organizational leaders to be confident in their ability to protect children in non-school youth activities, a waiver system should be utilized. The Florida Department of Juvenile Justice has provided such a waiver and agreed to provide a process where youth service providers can run background checks on the children they are considering admitting to their programs. The form, which we incorporate in this presentment, can be signed by the parent or guardian of the child who wishes to enroll in the camp or activity and must be notarized. The parent can then send the signed form to the department's public records

department either by fax, email, or traditional mail and the department can issue a "face sheet", of the applicant's history, if any, with the Department of Juvenile Justice to the youth program. The program can then decide whether they want to admit the applicant or not. If they do, they can then take steps to appropriately staff and supervise based on the needs of the child.

We recognize that this may serve as a deterrent to some families with children with delinquency histories. However, this is balanced by the bilateral voluntary nature of the system. It is up to the program on whether they wish to seek such waivers when considering admission. Secondly, it will be up to the juvenile and his family on whether they wish to apply and sign such a waiver. Hence, any disclosure would be anticipated when they applied, and they could take steps to minimize any concerns for the provider or other enrollees.

THEREFORE, with a quorum present and twelve or more in agreement, we make this presentment.

RESPECTFULLY SUBMITTED this 17th day of October 2019.



Foreperson

Attest: 
Grand Jury Clerk



FLORIDA DEPARTMENT OF JUVENILE JUSTICE

Request for Release of Juvenile Records

(Please Print)

This request may be subject to service charges. Please see Florida Statute Section 119.07(4)(d), F.S. regarding the application of this fee. This office is may request a deposit prior to production of this request.

I, _____, hereby authorize the Florida Department of Juvenile Justice by its agents or authorized representative, to provide _____ with the following records regarding: _____ date of birth

Youth Date of Birth

Youth Name

Please Check One

- Complete Records File
- Face Sheet (RAP Sheet) Only
- Medical Records Only

Signed: _____
Self/Parent/Guardian

Email: _____

Phone: _____

Fax: _____

Document Return Address: _____

STATE OF _____
COUNTY OF _____

On this _____ day of _____, 20____.
Before me, undersigned authority, personally appeared _____. Whose name is subscribed hereon, and who executed same under oath for the purposes herein expressed.

Notary Public

Print Name of Notary Public

My Commission Expires: _____

___ Personally known to me, or
___ Produced Identification
Type: _____

2737 Centerview Drive • Tallahassee, Florida 32399-3100 • (850) 488-1850

Ron DeSantis, Governor

Simone Marsteller, Secretary

The mission of the Department of Juvenile Justice is to increase public safety by reducing juvenile delinquency through effective prevention, intervention, and treatment services that strengthen families and turn around the lives of troubled youth.