

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA**

**Case No.: MHC-180000491  
DIVISION: 61J  
JUDGE: CHARLES M. GREENE**

**IN RE RECORDS OF THE DEPARTMENT OF  
CHILDREN AND FAMILIES** /

**ORDER TO PUBLICALLY RELEASE  
RECORDS OF THE DEPARTMENT OF CHILDREN AND FAMILIES**

THIS MATTER came before this Court upon the Petition of the Department of Children and Families (hereafter "Department"), and Supplemental Petition to publically release confidential records pertaining to an investigation of alleged abuse, neglect or exploitation of a vulnerable adult. This request pursuant to Florida Statute 415.1071(1) seeks this Court's Order to allow the release of information which is otherwise confidential pursuant to Florida Statute 415.107(1). The Department specifically seeks to release its "Investigative Summary," together with the 19 pages of back-up documentation related to an investigation involving Nikolas Cruz. Nikolas Cruz has been identified as the suspect in the school shooting which occurred at Marjory Stoneman Douglas High School in Parkland, Florida on February 14, 2018, and has allegedly confessed to the shooting. This tragic incident resulted in the deaths of seventeen (17) students and faculty members, in addition to wounding over one dozen additional students and individuals. Nikolas Cruz at the time of this incident was nineteen (19) years of age. Numerous media organizations have also made requests of the Department for any record relating to Nikolas Cruz. These requests include any reports of abuse or neglect investigations, Department interactions with Nikolas Cruz or his relatives/adoptive parents. The Department has requested the Court to conduct an In Camera review and has supplied the documents at issue. Mr. Cruz's attorneys have waived his appearance at this hearing.

## ANALYSIS

All records concerning reports of abuse, neglect or exploitation of a vulnerable adult are confidential and exempt from disclosure pursuant to Florida Statute 415.107(1), except as authorized by ss 415.101-415.113 Florida Statutes. This statute is intended to protect the rights of the individual (vulnerable adult) as well as persons responsible for the welfare of the vulnerable adult.

The Florida Legislature has provided a mechanism for the Courts, upon petition, to enter an order making public records of investigations of alleged abuse, neglect or exploitation of a vulnerable adult. Florida Statute 415.1071. In reviewing a request for release of these records, Courts serve the crucial role of providing analysis to ensure that appropriate rights are balanced against the public interest in the disclosure of accurate information. The court is required to "determine if good cause exists for public access to the records sought or a portion thereof." Florida Statute 415.107(1) provides that the good cause determination is to be based on a balancing of interests. The statute directs the court to balance the best interest of the vulnerable adult involved and the privacy rights of other persons identified" in the records against the public interest." The "public interest in access" is specifically identified as being reflected in section 119.01(1) and as including the need for citizens to know of and adequately evaluate the actions of the Department and the court system in providing all persons whom the Department is charged with care, with the protections afforded by law.

The Court must weigh the interest of the public in having an adequate basis for evaluating the performance of Department (DCF) and the court system in carrying out their responsibilities for the protection of children and vulnerable adults. The public interest in disclosure is based on the underlying public interest in understanding the causes of performance shortcomings which is a prerequisite to correcting those shortcomings. The public interest in correcting such shortcomings coincides with the interests of all children and vulnerable adults who may suffer as a consequence of failures in the state's efforts to protect them from abuse. As with the best interest of the child, there is nothing in the

statute which suggests that the public interest set forth in the statute should be narrowly construed.

This Court has conducted an In Camera review of the investigation and sets forth its findings of fact and conclusions of law below:

The documents request relate to an investigation of alleged abuse, neglect or exploitation. The investigative report sought to be released by the Department classified Nikolas Cruz, then eighteen (18) years of age as an “alleged victim” of medical neglect and inadequate supervision. His adoptive mother, Lynda Cruz was named as the alleged perpetrator. The Department’s investigation reportedly concluded on November 12, 2016 with the findings that Nikolas Cruz had not been mistreated by his mother, that he was receiving adequate care from a counselor at Henderson Mental Health and that he was attending school.

The substance of the vast majority of the information contained in the material reviewed has already been published by the media and has entered the public domain. As such the weight to be afforded to the privacy interests of those affected by the dissemination of the otherwise confidential information is lessened. *In re Records of DCF*, 873 So.2d 506 (Fla 2<sup>nd</sup> DCA, 2004). The court evaluates the impact of the disclosure of the records against the backdrop of the information that is already publicly known. The relative weight of the competing interests is affected by the fact that information contained in the records is already substantially known to the public. The fact that information in the records is publicly known will not, however, necessarily — or even ordinarily — be sufficient to vitiate the public interest in disclosure of the public records at issue. Nor will the vulnerable adult’s interest in nondisclosure of the records vanish simply because information contained in the records is already the subject of public knowledge. The court must consider the potential impact of the disclosure of any additional information that is not publicly available as well as the potential impact of the confirmation of already-disclosed information that would flow from the release of the records sought by the petition

Because of the intense publicity already surrounding this matter, any privacy interests of Mr. Cruz in preventing disclosure of the Department's investigation are substantially diminished. Court records (Case # 18-001958CF10A) reflect that Nikolas Cruz after arrest confessed to planning and carrying out this attack at the Marjory Stoneman Douglas High School. Cruz's team of attorneys has made public statements of Cruz suffering from chronic depression, being diagnosed with autism and attention deficit disorder. Mr. Cruz's adoption by the Cruz family and subsequent death of his adoptive father and recent death of his adoptive mother has been publicized. Behavioral and educational issues as well as law enforcement investigations have been reported. Argument has been published that the "system" not only let the victims down, but Nikolas Cruz as well. Furthermore, his arrest and confession extinguishes his privacy rights in balancing the public rights to accurate information. *See Post-Newsweek Stations v. Doe*, 612 So.2d 549, 554 (Fla. 1992) and *Jacova v. Southern Radio & Television Co*, 83 So. 2d 34 (Fla. 1955).

The Court must also consider any privacy right of the "alleged perpetrator", his adoptive mother, Lynda Cruz of medical neglect and inadequate supervision. From the media accounts, Lynda Cruz died in November, 2017. Her death extinguished her ability to assert a privacy interest. As such the Court need not factor Mrs. Cruz's privacy interest into an analysis of good cause for release of the otherwise privileged information. *See Department of Health and Rehabilitative Services v. Gainesville Sun Publishing Company*, 582 So. 2d 725 (Fla, 1<sup>st</sup> DCA, 1991).

#### CONCLUSION

Upon its In Camera review, the Court determines that good cause exists for the release of the confidential records as result of the shooting that occurred at the Marjory Stoneman Douglas High School. This event was immediately publicized in all forms of media not only in South Florida, but Nationwide and throughout the World. Information regarding the life of Nikolas Cruz was immediately reported and continues to this date to be further disseminated. This information included but is not limited to his childhood, his status as an adopted child, his adoptive father's death many years ago, and the recent death of his adoptive mother in November, 2017. Details have been published about his struggles with depression, attention deficit disorder and increasingly difficult to control behavior.

The media has published accounts of interventions by the Department of Children and Families, educational counselors, mental health counselors and facilities. Reports and concerns of his behavior were allegedly communicated to law enforcement agencies. Statements and reports have been made of mental health evaluations (Mobile Crisis Unit) and Mental Health Services (Henderson Mental Health). Law Enforcement Agencies have been criticized for letting him "slip through the cracks" after being notified of Cruz's behavior. His purchase of an AR-15 assault rifle has led to renewed calls for legislative gun control changes. Questions and debate will persist as to how and whether this tragedy could have been prevented. The public has a need and right to be provided with accurate information. The public should have the opportunity to properly evaluate the actions of the Department of Children and Families and all agencies that interacted with Nikolas Cruz prior to February 14<sup>th</sup>, 2018.

Therefore, good cause exists for the public to be able to establish whether what has been reported which normally would be confidential is, in fact, accurate.

IT IS HEREBY ORDERED AND ADJUDGED that the records of the Department of Children and Family which have been subject to the Department's Petition for Release and examined by this Court In Camera are hereby Ordered to be Released. DCF is seeking a redaction of the names of individuals other than its employees which the Court grants, however their titles shall be released.

DONE and ORDERED this \_\_\_\_\_ day of February, 2018.

**CHARLES M. GREENE**

**FEB 19 2018**

**A True Copy**

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**CHARLES M. GREENE**  
**CIRCUIT JUDGE**

**Cc:**

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