



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE
LANSING



COL. PETER C. MUNOZ
DIRECTOR

June 9, 2009

Lynn Cleary, Superintendent
Lincoln Consolidated Schools
8970 Whittaker Road
Ypsilanti, Michigan 48197

RE: RELEASE AND SHARING OF CRIMINAL HISTORY RECORDS

Dear Superintendent Cleary:

This correspondence is in reference to the proper procedures for dissemination of criminal history record information obtained from the Federal Bureau of Investigation (FBI). We are providing clarification for Freedom of Information Act (FOIA) requests and employment information shared between schools per M~~e~~l 380.1230a, Section 4.

Under provisions set forth in Title 28, Code at Federal Regulations, (CFR), Section 50.12, it statesIdentification records obtained from the FBI may be used solely for the purpose requested and may not be disseminated outside the receiving department, related agency or other authorized entity....”

It has recently come to our attention that in the case of Mr. David Schied, a Freedom of Information (FOIA) request was granted by your agency to Mr. Ear' Hocquard, dated March 12, 2009. The information package contained the FBI criminal history response of Mr. Schied. The Michigan State Police want to remind you that FBI criminal history records should be redacted from all FOIA responses. Under federal regulations and Michigan statute, sharing of FBI criminal histories is allowed between school districts for employment purposes upon a written request from a school district and a signed release of information from the applicant.

Any future releases of FBI records, other than sharing with another school district, could result in your agency losing access to the FBI criminal history records. Please respond in writing the steps your agency has taken, or will take, to comply with federal regulations and state statute.

If you have any questions, do not hesitate to call me at (517) 322-1038.

Sincerely,

Robert Grounds, Supervisor
Quality Control Sub-unit

cc: Mr. David Schied

David Schied
20075 Northville Place Dr. North #3120
Northville, MI 48167
248-924-3129
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6/15/2009

Copied to Capt. Charles E. Bush by _____
Certified mail: 7008 1140 0004 1993 5295
and by email to bushce@michigan.gov;
Certified mail to Robert Grounds; and email: Groundsb@
Copied by email to Tim Bolles at: bollest@michigan.gov

Robert Grounds – Supervisor, Quality Control Sub-unit
Criminal Records Division
P.O. Box 30634
Lansing, MI 48913

Re: Service of notice that your “Slap-on-the-hand” and written warning notice to Lincoln Consolidated Schools was devoid of other information we discussed

Mr. Grounds:

I am in receipt of a copy of the letter that you wrote to Lynn Cleary, the current superintendent of Lincoln. Your letter warns that “*any future releases of FBI records, other than sharing with another school district, could result in your agency losing access the FBI criminal history records*”. I am writing to express my disappointment that your letter demonstrated significant “*omissions*” from what you had told me over the phone was your intention to also include in your letter of reprimand to this school district. Additionally, I am writing to express my outrage that your letter “*misrepresented*” the claim of my initial complaint to your agency, that the activities of Lincoln Consolidated Schools dissemination of an erroneous 2003 FBI report had only “*recently*” come to the attention of the Michigan State Police.

As both you and the Lincoln Consolidated Schools are well aware, the information you provided in your letter was redundant and informing of nothing essentially new to the Lincoln Consolidated Schools superintendent. The Evidence I had sent to you, and to which your was representing as responding, showed that these school officials have been disseminating the 2003 FBI report under the Freedom of Information Act on numerous occasions since 2003, all while understanding that in 2003 I had attempted to exercise my statutory right to challenge the accuracy of that FBI report under federal statute 28 CFR § 50.12 while keeping my job but while knowing that a previous Lincoln school official had denied me that federal right. As we talked about over the phone, the Lincoln Consolidated Schools had within their possession that very statute since the full meaning of 28 CFR § 50.12 was written out clearly right on the face of the FBI report that they had been criminally disseminating to the public under FOIA request for the past 5 ½ years without intervention from your Michigan State Police agency. What you wrote to superintendent Lynn Cleary at the Lincoln school district was nothing more than what they already have long known. It simply reiterated once again what I have been claiming in civil and criminal litigation these past 5 ½ years in that 28 CFR § 50.12 maintains:

“Identification records obtained from the FBI may be used solely for the purpose requested and may not be disseminated outside the receiving department, related agency, or other authorized entity...”

What perturbs me, Mr. Grounds, is that your letter for some reason did not include the other items of detail that we had discussed over our numerous phone conversations. One of the things you

apparently decided against despite your assurances over the phone, was to include other direct quotes from the face of the FBI report focusing not only upon my rights to privacy, but also my right to challenge the accuracy of the 2003 criminal history report and my right to maintain employment while challenging and correcting that erroneous criminal history report information (CHRI). As you know the FBI report is quoted as follows:

“If the information is used to disqualify an applicant, the official making the determination of suitability for licensing or employment SHALL provide the applicant the opportunity to complete, or challenge the accuracy of, the information contained in the FBI identification record. The deciding official SHOULD NOT deny license or employment based on the information in the record until the applicant has been afforded a reasonable time to correct or complete the information or has declined to do so.”

In fact, though I had clearly sent you Evidence and statements clearly referencing a crime report I had filed with the Michigan State Police in 2005, you had stated that though you have been with the Department of State Police for quite some time, you still had never been informed about this earlier complaint. Rather, you stated that in all your years in the Department, you have never come across an incident as outlandish as this case. In fact, you stated that typically when an employee challenges the accuracy of results from a criminal fingerprint check, employers in Michigan have simply followed due course of law to allow employees to report the problem and to order another fingerprint check after giving the source agency the time to verify their error. You stated that since this was the first case that you had ever come across where the employer had been in such clear violation of the federal statute, you would need a few days to check with your supervisors and with the FBI to determine how you should handle this situation.

Your letter dated 6/9/09 omitted other significant details that we had discussed over the phone and which you also expressed to me your intention to address in a letter. One of those important issues had to do with “**CATHY SECOR**”, the business office manager working under superintendent Lynn Cleary. As you recall, Secor was the person at that District who had actually signed the cover letter that accompanied the FOIA response package, which not only contained 2003 erroneous FBI report sent through the mail to Mr. Earl Hocquard earlier this calendar year, but also contained at least one copy of a “*nonpublic*” Texas clemency document, a 1979 court Order of “*set aside*”. That was the “*Early Termination Order of the Court Dismissing the Cause*” that you identified in your possession during our discussion over the phone.

As you know, that “set aside/Early Termination” document had been submitted to “*interim*” superintendent **SANDRA HARRIS** in 2003 “*in good faith*”, along with a 1983 Texas “*governor’s full pardon*”, as demonstrative of my effort to rely upon my federal right to disprove the accuracy of the FBI report that Cathy Secor continued passing out to the public for the subsequent 5 ½ years. As three sworn “*witness*” Affidavits accompanying Earl Hocquard’s sworn affidavit clearly verified, I had provided copies of the set aside and Texas governor’s pardon to Lincoln administrator Sandra Harris in 2003 specifically to “*challenge*” and to “*correct*” the inaccuracies in that report. You, Robert Grounds, had told me over the phone that you intended to include reference to that document in your letter of warning to the Lincoln Consolidated Schools; but for some reason you did not.

I wish to know your reason(s) why you misrepresented to me your intentions over the phone to include these other items in your letter to Lincoln Consolidated School.

Furthermore, over the phone we discussed how the public dissemination of the Texas “set aside” document was not a CRIMINAL OFFENSE in violation of the “*spirit*” of Michigan Set Aside Law (MCL 780.623) but also the “*letter*” of Texas “*set aside*” and “*expunction*” laws.

You were quite aware, by the documents that were forwarded to you through the Michigan Law Enforcement Information Network (LEIN) supervisor Liz Canfield (the wife of your departmental supervisor Chad Canfield), as well as by my reiterating the information over the phone, that the Lincoln Consolidated Schools’ office of the superintendent, the school board, and their business office personnel have all been aware these past 5 ½ years that after being terminated from my employment, I continued to “*challenge*” the accuracy of that erroneous FBI report, and that in 2004 that report was finally “corrected” by means of a Texas court “*Order of Expunction*”. **A copy of that Expunction document was provided with the Complaint that I had sent to you, and you understood by my reference (over the phone) to the top of page 2 of that document, that this Texas court Order strictly “prohibited” the use or dissemination of ANY information relative to the offense that was otherwise “obliterated” by that Texas court order. This would include the “SET ASIDE” that was also sent out (again) through the mail in response to FOIA request from a member of the public.**

I expect you to remember the conversation that we had because we engaged in a difference of opinion when you informed me of your belief that neither State nor Federal “*Full Faith and Credit*” statutes would support my claim that the public dissemination of the Texas “*set aside*” document was a **criminal** offense enforceable here in Michigan, even though it was a set aside Order by a Texas court and not one derived from a Michigan court. You addressed my argument about this issue by stating simply, “*That ‘issue’ is between (me) and Texas*”; and while suggesting that I had the wrong “*interpretation*” of what Full Faith and Credit laws are supposed to provide for me as a law-abiding citizen. You stated that Michigan held no legal obligation to me, to provide “*full faith and credit*” to either the Texas court Order of Expunction (prohibiting the dissemination of information referenced by the Order), or to Texas “*set aside*” laws which, like Michigan set aside laws, make such malicious dissemination of information known to have been set aside a criminal misdemeanor offense.

Therefore, despite your being fully aware that Lincoln school officials had full knowledge and possession about my “*set aside*”, and having disseminated copies of that set aside document along with the FBI report in 2003, then again in 2006, and again in 2009, you nevertheless declined to include that information in your written warning to the Lincoln school district superintendent. Similarly, by reference to the Schied v. Sandra Harris and the Lincoln Consolidated Schools case, I had informed you that the Lincoln Consolidated Schools, their administration, and their school board have been aware of and in possession of that Texas court “*Order of Expunction*” since 2005 and yet still in 2009 tortuously disseminating information that is otherwise “prohibited” under the “*spirit*” of Michigan law and the “*letter*” of Texas and federal laws. Yet again, you have done nothing....not to report it to your law enforcement division or to even to issue a warning about these violations by the Cathy Secor and her other school district officials.

As I pointed out regarding that Schied v. Sandra Harris and the Lincoln Consolidated Schools case, the Michigan Court of Appeals was available to anyone online and under a simple “*Google*” search. That ruling clearly stated that should I have had that Texas court Order of Expunction before 2003 that the Lincoln school official Sandra Harris would not have had governmental immunity to writing her two defamatory letters calling me a “*liar*” and a “*convict*”, of which both of those letter had been

sent out in 2003 and again in 2006, and one of those letters was again reported to you as having been sent out a third time to Mr. Hocquard.

Yet you continued to assert that the public dissemination of my Texas set aside was “*unenforceable by the Michigan State Police*”. In fact, you stated that “*even if it was enforceable by the MSP you knew (by my having informed you in a previous call) that (I) had already reported this as a criminal offense in 2005*”. You understood that in 2005 **Det.Sgt. FRED FARKAS** (now retired from the MSP Ypsilanti Post) had “*perjured*” my crime report when he wrote his “*official*” crime report fully nine months later in 2006 and submitted it to prosecutors without the Evidence I had provided to him showing that not only was the FBI report sent out under FOIA request in 2003, but that so too were multiple copies of the “set aside” documents and Harris’ two defamatory letters. You know that we talked about this over the phone because I mentioned Farkas by name when expressing that he had committed a FELONY offense by his perjury and malfeasance of duty.

Moreover, I took my report of what happened with the Michigan State Police in 2006 a step further to inform you that when I reported this felony offense by MSP officer Fred Farkas to regional supervisors (BETH MORANTY, DARRYL HILL, ANN McCAFFERY, and LYNN HUGGINS) and to the Washtenaw County prosecutors (JOSEPH BURKE and BRIAN MACKIE), they refused to do anything about it. I had informed you that I had even reported all of these Michigan State Police officials to KARLA CHRISTIANSEN and DAN PEKRUL of your MSP “Internal Affairs” division with the same results. I also reported the prosecutors Burke and Mackie as having committed felony “*abuse of prosecutorial discretion*” for also disregarding my otherwise clear reference to both SET ASIDE laws and Michigan Revised School Codes (MCL 380.1230, MCL 380.1230a and others). I told you that those statutes had echoed the federal statute you quoted from the FBI report holding that it is a CRIMINAL MISDEMEANOR offense to share that criminal history information with ANYONE “*outside the receiving department or office*”, and particularly anyone not directly involved in evaluating the applicant’s qualifications for employment.

Mr. Grounds, in your reply back to me, you expressed some concern that I might be trying to hold you accountable for the felony “*malfeasance*” of dutiful action that I was telling you had occurred by other MSP officials. I told you then that while I could not hold you personally responsible for information that you were never informed about, I still hold those other Michigan State Police and Washtenaw County prosecutors partially responsible for these crimes continuing to occur through 2006 until now in 2009. I also stated that I would hold you accountable for the information that I was then telling you about over the phone. You should recall that your reply back to me was twofold: First you stated that you are not a police officer but an ordinary citizen working for the Michigan State Police so therefore had not authority to order anyone’s arrest. Secondly, you stated simply that, “*as auditor, it’s not (your) jurisdiction to enforce criminal statutes even though (you) work for the Michigan State Police*”.

In reply and rebuttal to your statements, I informed you however that as an employee of the Michigan State Police, I believed it was your duty to take action upon my criminal complaints, and clearly your letter shows that you have not taken such action as to report these crimes to those with the proper “*jurisdiction*” to take action to issue a proper CRIME REPORT about this new criminal event. I therefore demand that you take that proper action now and forward this letter to the proper officials along with copies of all of the other documents issued by email attachments along with my Complaint to Liz Canfield on 5/18/09.

Statutes of the Michigan *Revised School Codes* essentially hold the following as set forth by both **MCL 380.1230**; and **MCL 380.1230(a)** (VIOLATION AS MISDEMEANOR):

“A representative of the individual’s employer who receives a copy of a report, or receives results of a report from another source as authorized by this subsection, shall not disclose the report or its contents or the results of the report to any person outside of the employer’s business or to any of the employer’s personnel who are not directly involved in evaluating the individual’s qualifications for employment or assignment. A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00...”

Additionally, **MCL 380.1230(b)** holds:

“ VIOLATION AS MISDEMEANOR – “....[A] board member or employee of a school district, local act school district, public school academy, intermediate school district, or nonpublic school SHALL NOT disclose the (criminal history) information to any person, other than the applicant, who is not directly involved in the process of evaluating the applicant’s qualifications for employment. A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00...”

Yet Mr. Grounds, your letter authorizes the Lincoln Consolidated Schools to share this criminal set aside, pardoned, and expunged criminal history information with other school districts. I perceive your actions, to disregard my rights “*under color of law*” to be not only a civil rights offense, but also evidence that you too are partaking in a FELONY *conspiracy* to deprive me of my rights by “*cherry picking*” what laws you intend to rely upon to “*aid and abet*” and “*cover up*” these newest criminal offenses by the Lincoln school district officials. (Your letter addressed to Lynn Cleary as supervisor to those who you have personally verified as the actual culprits in this incident, adds to that cover up by your careful choice not to even mention their names in your letter.)

Lastly Mr. Grounds, I explained to you that not only has the Lincoln Consolidated Schools been clearly willing to criminally disseminate this erroneous FBI report to other employers and to the public under FOIA request since 2003, but that another school district has been undertaking the same offenses against me using the Texas court “*Order of Expunction*” that I had provided to them “*in good faith*” to prove that the FBI report they received was also in need of “*challenge and correction*”. I informed you that I have additional Evidence that the Northville Public Schools in my home town of Northville had been criminally disseminating that 2004 Texas clemency document to other employers and to the public since 2005 when I provided that clemency document to them. I also told you that they were doing so despite the Human Resources director (KATY DOERR-PARKER) having written to me two explicit email messages of assurance promising to keep my clemency documents completely out of my public personnel file until the state of Texas and the FBI could update their records according to the Texas court Order demanding that all files be “*obliterated*”.

I stated that this school district official (Katy Parker) had promised to honor that Texas court Order by promising to either “*return or destroy*” my confidential documents once I had submitted to another set of fingerprints that would come back showing that the FBI criminal history report had been “*cleared*” and showing that “*no criminal history exists*”. I told you that while I had kept my side of that written bargain by submitting to – and paying for out of my own pocket – a new set of

fingerprints for another FBI CHRI report in 2005, that by then the school official by then had seen that I had been pursuing both civil and criminal allegations against her “*peer group*” of other school district administrators at the Lincoln Consolidated Schools, and that she ended up turning around and placing my “*nonpublic*” clemency documents into my public personnel file instead. I told you that later that same year (in 2005) that another Northville Public Schools administrator (DAVID BOLITHO) then sent that Texas “*expungement*” Order to my newest employer despite my having earned two honorary letters of recommendation from two school principals at that district while getting that FBI report “*corrected*”. I also told you that I had additional evidence that since 2006 these Northville Public School officials (inclusive of their superintendent LEONARD REZMIERSKI) had been sending the expunction documents out through the U.S. Mail to anyone requesting a copy of my public personnel file under FOIA request.

Clearly, even if you had not been taking notes on our phone conversation as I had done and had therefore “*forgotten*” some of the elements of our previous conversations over the phone regarding the Lincoln Consolidated Schools, we still verified together over the phone that you had received ALL of the documents that I had sent to Liz Canfield by email attachments along with my initial Complaint to her section of the Criminal Records Division of the Michigan State Police. Now, by this letter, you have the review of our multiple conversations in writing.

I suggest that you take additional action to demonstrate your good faith in addressing the issues I have set forth above, and to rectify the problems I have outlined with BOTH school districts. Your admittedly giving the Lincoln Consolidated Schools administrators a simple “*slap-on-the-hand*” is insufficient to address the documented history I have provided to you about the malicious and tortuous actions that school district officials have collectively taken against me at TWO school districts since 2003 using documents that I have otherwise provided to them by entitlement under Federal statute 28 CRF § 50.12. You claimed to me over the phone that since this is a federal statute you believe that it is up to the federal government to enforce that law, not the State government. That is a lame answer and indicative of the part you are playing in furthering the years of felony “*cover up*” of these criminal offenses by other MSP personnel and Washtenaw County prosecutors.

You therefore have 10 days from the date on this letter to respond and to forward my “Crime Report” to the “*proper jurisdiction*” within your “Department of State Police”. If I do not find evidence that you have take those appropriate steps, I will be taking further action against you personally for the information about which I had clearly stated over the phone you would be held accountable as a “*citizen*” who is otherwise “*officially*” employed by the Michigan State Police as a Quality Control Sub-Unit “Supervisor”.

Respectively,



Cc.

Rick Long – Michigan Education Association
Tim Bolles – Manager, Criminal History Section of the Criminal Records Division
Captain Charles E. Bush – Commander, MSP Criminal Records Division



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE
LANSING



COL. PETER C. MUNOZ
DIRECTOR

June 24, 2009

Mr. David Schied
20075 Northville Place Dr. North #3120
Northville, Michigan 48197

Dear Mr. Schied:

I would like to take the opportunity to thank you for bringing the issue of the improper dissemination of your criminal history information to our attention. In your correspondence dated 6-15-09, you make a number of references to actions that have taken place with regard to your case in the past. I will not reopen the issues from the past, as these matters have previously been addressed. However, with regard to the issue of the Freedom of Information (FOIA) request that was granted by the Lincoln Consolidated Schools to Mr. Earl Hocquard, dated March 12, 2009, I would like to outline the nature of the current and future actions of the Criminal Records Division.

On June 9th 2009, a letter was drafted and sent to Lynn Cleary, Superintendent of Lincoln Consolidated Schools, by Mr. Robert Grounds of my staff, reminding them of the proper procedures for the sharing of criminal history information. Mr. Grounds requested that Ms. Cleary respond in writing to the Criminal Records Division on the steps that the district has taken or will take to prevent a recurrence of a disclosure similar to the one that occurred on March 12, 2009. Once the Criminal Records Division is in possession of the written response from Lincoln Consolidated Schools, a review of their policies will be undertaken and appropriate follow up will take place. In addition, my division will soon send correspondence to every current recipient of criminal history information authorized under MCL 380.1230 to remind them of the provisions outlined in federal and state statute regarding the usage of this information.

I appreciate you bringing this issue to my attention.

Sincerely,

CHARLES E. BUSH, CAPTAIN
Commander
Criminal Records Division