



INTEROFFICE MEMORANDUM

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TO:	File	DATE:	9/24/19
		DEFT NAME:	A.S. (a juvenile)
		CASE NO:	J19-1837
FROM:	Todd I. Bass Chief, Juvenile Division	RE:	No Action Memo

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On September 11, 2019, the City of Miami Police arrested the respondent based on violation of Florida Statute 836.10. The facts indicate that the respondent posted a video on “Tik Tok” (see footnote #1) where he is seen dancing to a rap song with his thumb and index finger held in the form of a firearm while pointing at 3 superimposed images of different schools displayed on the screen. While the respondent appeared to be motioning to shoot at the schools with his hand, gun fire shots from the rap song are heard as the names of the superimposed school images disappear from the screen. The respondent is also seen on the video appearing to be a school security officer ducking at the sound of additional gun fire from the rap song.

Upon arrest and post Miranda warnings, the respondent stated that he made the video because of the “Don’t judge me” challenge which involves posting a video with a before and after shot of the user which this video does not appear to follow (footnote #2). The respondent additionally said the 3 schools that were in the video insert (La Salle, Belen, and Stoneman Douglas) are rival schools in sports with his school, Columbus.

Florida Statute 836.10 states:

- (1) Any person who writes or composes and also sends or procures the sending of any letter, inscribed communication, or electronic communication, whether such letter or communication be signed or anonymous, to any person, containing a threat to kill or do bodily injury to the person to whom such letter or communication is sent, or a threat to kill or do bodily injury to any member of the family of the person to whom such letter or communication is sent, or any person who makes, posts, or transmits a threat in a writing or other record, including electronic record to conduct a mass shooting or an act of terrorism, in any manner that would allow another person to view the threat, commits a felony of the second degree...

While the State of Florida finds the respondent’s behavior to be reprehensible especially in light of the aftermath of the Marjorie Stoneman Douglas tragedy, there remains the inability to prove beyond a reasonable doubt that Florida Statute 836.10 was violated. It is only subject to speculation whether the respondent’s threat was credible to kill or do bodily injury or conduct a mass shooting at any of the schools that appeared in the video. Arguably, motioning with his hand and appearing to shoot a firearm at the name of the school while dancing to a rap song does not constitute a credible threat to kill or do bodily injury or conduct a mass shooting at the schools. Additionally, the City of Miami Police did not believe the respondent’s threat to be credible.

Finally, the State of Florida requested the defense submit to a psychological evaluation to determine what if any issues the respondent is experiencing. The defense had a psychological evaluation performed by Dr. Merry Sue Haber who opined the following in her report dated September 19, 2019:

- is a 16-year-old male with no history of major mental illness, substance abuse, violence or psychopathy. Rather he is a socially inept teenager who is showing typical signs of teens with impulsive, self-centered behavior, peer related behavior with little thought as to the consequences of his actions. All psychological tests indicate that he has no malevolence or harmful intent suggesting that in the instant offense he acted consistent with his immaturity.

Austin is deeply remorseful and ashamed of his behavior. He has a supportive and loving family who have constantly been with him and have monitored his thoughts and actions since his release from Juvenile Detention. They have removed his social media and phone and intend to home-school him due to the negative publicity. They have enrolled him in a teen program at their church. They are determined to closely supervise his behavior and to provide counseling if necessary.

Austin has learned a hard lesson. It is this examiner's opinion that he is unlikely to engage in any further inappropriate behavior. There is no indication from history, interview or test results that he presents a danger or risk to others.

Footnote #1: Tik Tok is a social media video application ("app") apparently used for creating and sharing shot lip-sync, comedy, and talent videos.

Footnote #2: The "Don't Judge Me Challenge" is a self-portrait video fad in which the video participant records oneself initially wearing heavy facial makeup in an attempt to appear as unattractive as possible, before shifting into another self-portrait showing a more attractive form.