

## Justham, Larry D.

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**From:** Justham, Larry D.  
**Sent:** Tuesday, April 3, 2018 4:20 PM  
**To:** 'Rodrigo Mello'  
**Cc:** 'Hodges, Randy (rhodges@sheriffleefl.org)'; Lovejoy, Tyler P.; Hughes, Erin E. (ehughes@sao.cjis20.org); Boltz, Heather  
**Subject:** ARM submissions

Mr. Mello,

After a thorough review of the submissions you made to our office through ARM we are declining prosecution. In order to prosecute any case we need to have viable and admissible evidence. As we have discussed several times, no matter how egregious or disturbing the potential crime, the unlawful interception of oral communications cannot be used as evidence. The fact that someone chose to tamper with the original recordings by redacting the oral portion and then submitting the video as if there had not been a violation of the law is disturbing. Altering the evidence to disguise the illegality destroys any credibility of anyone involved.

While attempting to acknowledge and recognize the hopefully primary intent of ARM to protect animals who are being abused, I have tried to be understanding of the conduct I have witnessed by the representatives of ARM. I believe I made it clear in our meeting but, in order to be specific and to memorialize what we discussed:

1. The unlawful interception of oral communications is a third degree felony.
2. Intentionally disclosing the contents of an illegally recorded communication is a third degree felony...which would include links to such communications repeatedly included in e-mails and web-sites with each disclosure a separate felony.
3. Tampering with evidence is a third degree felony.
4. Purchasing horse meat is a third degree felony as much as selling the same.

This office and the law enforcement officers we rely upon to conduct thorough, legal, and unbiased investigations are intent on protecting any and all animals from abuse. Anyone who would abuse an animal deserves to be prosecuted accordingly and it is our practice to do just that. The act of animal abuse is reprehensible. I sincerely hope that the conduct of any non-law enforcement person during what they perceive as justifiable, independent investigations does not jeopardize or obstruct any investigation being conducted by trained and experienced officers cognizant and respectful of the law. The ends cannot and do not justify the means regardless of the crime.

Having reviewed the submissions by ARM, I find that the vast majority of the incidents have already been reviewed by law enforcement, our office, or both of our agencies and prosecutions have previously been declined. I have not found any indication that anything was being held back from this office by law enforcement as was represented. As a result of what I have found, I am going to ask that any further submissions regarding any further incidents that you believe deserve investigation and prosecution be tendered to the appropriate law enforcement agency as opposed to being brought directly to this office. This is the protocol we follow in all other situations absent particular needs and I believe it is the protocol that should be followed hereafter.

## Justham, Larry D.

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**From:** Justham, Larry D.  
**Sent:** Tuesday, April 3, 2018 3:04 PM  
**To:** 'Hodges, Randy (rhodges@sheriffleefl.org)'  
**Cc:** Hughes, Erin E. (ehughes@sao.cjis20.org); Lovejoy, Tyler P.; Boltz, Heather  
**Subject:** Animal Recovery Mission submissions

Sgt. Hodges,

As I indicated in my email of March 16, a representative of ARM dropped off numerous binders for our review. (I had previously erroneously referenced that there were 10 binders, it was only 9). I am aware that you have met with our assigned attorney and reviewed the matters that were submitted and I appreciate your assistance. Each and every binder and its contents have been reviewed for prosecutorial merit by the assigned Assistant State Attorney and we have found no cases that are able to be prosecuted for various reasons.

The binders submitted for our review involve incidents that date back to 2016 and encompass matters that you and your department have submitted previously for our consideration and were declined for prosecution. I am aware that ARM is aware that we have reviewed these matters previously and arrived at a decision as, at the very least, I told them that during our meeting on March 1 prior to this submission. Notwithstanding my indication that those matters were resolved, they were resubmitted. Those matters are still not prosecutable for all of the reasons they were not prosecutable in 2016 and 2017.

Following your meeting with our attorney I am advised that there were only two incidents that haven't either already been reviewed by you, by our office or by both. Neither of these incidents are able to be prosecuted for much the same reasons as the others. Foremost, we cannot use illegally recorded communications in the prosecution of criminal cases.

As I indicated on March 16 : "The only purpose in allowing ARM to drop these files off here rather than leave them with you so you can send them here is to help alleviate what I believe were the baseless accusations being made against LCSO and our office that these cases were not being reviewed properly." A review of the submissions clearly shows that you and your department have more than fulfilled your obligations. As such, it is our position that any further submissions will be through the appropriate law enforcement agency and the established protocols will not be circumvented as they were for these submissions.

During the course of the past few weeks I have received numerous emails from ARM representatives including Mr. Cueto. It is unfortunate that Mr. Cueto seems unwilling to acknowledge or accept that the conduct of the individuals he labels as "investigators" (including his own conduct) is jeopardizing the prosecution of individuals who may be abusing animals in contravention of the law.

The information that was presented to this office by ARM does show what could be interpreted to be unlawful conduct on their part. Each of the submissions includes video without audio of contact between ARM representatives and others. In that all but two of these submissions have already been brought to our attention and the attention of law enforcement, we are aware that the videos submitted at this date had audio portions that have now been removed. Apparently it is ARM's belief that removing the audio portion after it's recording somehow cleanses the prior improper conduct. It does not. At the time of recording, the ARM representatives were violating Florida Statute 934.03, the Unlawful Interception of Oral Communications statute, a third degree felony. I know that we made it clear during our March 1 meeting with ARM that their conduct was unlawful. Apparently someone within their organization decided to tamper with the video and remove the audio and resubmit the recording as if the felony had never been committed. This conduct could easily be considered a violation of Florida Statute 918.13, tampering with evidence - (b)

Make, present, or use and record, document, or thing, knowing it to be false...a third degree felony. I am hopeful that this conduct was an ignorance of the law rather than an attempt to submit false evidence for our consideration.

I have tried several times to convey to the ARM representatives that FS 934.03 not only makes it a felony of the third degree to unlawfully intercept oral communications, it is also a third degree felony to intentionally disclose the content of the communications unlawfully intercepted. Notwithstanding my express reference to that statute, ARM continues to attach links to illegal recordings on a regular basis in their emails with each occurrence a possible third degree felony.

The documents presented by ARM for our consideration are a textbook example of why trained and experienced law enforcement officers should conduct criminal investigations rather than having well-intentioned civilians attempting to act in the stead of law enforcement. The law does not allow for an "ends justify the means" approach which seems to be the technique most often utilized by ARM in the situations submitted for our review. Most disturbing amongst the submissions as related to the conduct of ARM in its self-styled investigation is the incident where it appears that the head of ARM, Richard Cueto, is professing to have purchased horse meat. The purchase of horse meat from someone not authorized to sell horse meat is a felony of the third degree. In this one incident it appears that ARM bought horsemeat, a third degree felony; surreptitiously recorded the incident, a third degree felony; and doctored the recording so it could be submitted as evidence, a third degree felony.

As always, should a viable case with admissible evidence be presented to your agency and you believe it should be reviewed for prosecution, we will give that matter all of the attention it so rightfully deserves. Hopefully the inappropriate conduct of civilians professing to be conducting criminal investigations will not impede or impair the prosecution of anyone who would choose to abuse an animal. The protection of helpless animals and the prosecution of anyone who could abuse them is now and will remain a priority.