



*Florida Department of Law Enforcement*

## **OFFICE OF EXECUTIVE INVESTIGATIONS**

### ***Former Representative Mark Foley United States House of Representatives***

## ***INVESTIGATIVE SUMMARY***

### **INVESTIGATIVE PREDICATE**

On September 30, 2006, Governor Jeb Bush directed FDLE Commissioner Gerald Bailey to conduct an inquiry into allegations that former United States House Representative Mark Foley engaged in inappropriate communications with former U.S. House of Representative Pages.

On October 1, 2006, Speaker of the United States House of Representatives, Dennis Hastert, sent a letter to Governor Bush requesting FDLE to conduct an investigation of Foley. Speaker Hastert advised that Foley had resigned his position of United States Representative on September 29, 2006, amid allegations that he had sexually explicit communications with House Pages.

Speaker Hastert also requested FDLE to determine who had specific knowledge of the content of the alleged inappropriate communications and why this information was not turned over to law enforcement or prosecutors immediately. Speaker Hastert indicated that he was also requesting the United States Department of Justice to investigate whether any federal laws may have been violated.

On October 2, 2006, Governor Bush responded to Speaker Hastert that FDLE had begun an inquiry into the allegations against Foley. Additionally, Governor Bush advised Speaker Hastert that the Federal Bureau of Investigation (FBI) was the lead agency investigating the matter and that FDLE would work in close coordination with the FBI.

### **INVESTIGATIVE NARRATIVE**

On September 29, 2006, ABC News released transcripts of instant messages that Foley allegedly sent to a former House Page in February 2003. The instant messages contained sexually explicit content and implied that Foley was in Pensacola, Florida at the time of the communication. ABC News also purported that Foley used the America Online (AOL) Instant Messenger screen name "MAF54" to communicate with former House Pages. Further investigation by FDLE revealed the AOL account "MAF54" was linked to the MySpace.com account #43489677.

Based on the information made public and as reported to FDLE, an investigation into whether there was a criminal violation of Florida law, including but not limited to, Sections 847.0135 and 847.0138, Florida Statutes, was begun. Florida State Statute 847.0135, known as the "Computer Pornography and Child Exploitation Prevention Act" addresses illegal conduct involving adults, minors and computer pornography. Florida State Statute 847.0138 addresses illegal conduct involving the transmission of material harmful to minors by electronic device or equipment.

On October 4, 2006, FDLE faxed preservation letters to AOL and MySpace.com in attempt to preserve any communications from AOL Instant Messenger screen name "MAF54" and Myspace.com account #43489677 from destruction. FDLE also faxed a preservation letter to AOL for the account "[REDACTED]" which news outlets purported to be the account of a House Page who had received instant messages from Foley. Additionally, FDLE subpoenaed AOL on October 5, 2006, to identify the subscribers of AOL screen name "[REDACTED]" and "MAF54." AOL records identified the subscriber of "[REDACTED]" as [REDACTED], and the subscriber of "MAF54" as Mark Foley of Washington, DC. [REDACTED] was subsequently identified as the father of former House Page [REDACTED]. AOL does not capture Instant Messenger transcripts and retains Instant Messenger Internet Protocol connection logs for 10 days. Therefore IP logs and chat transcripts were not available for 2003 communications.

## INVESTIGATIVE INTERVIEWS

### House Page Interviews

On October 24, 2006, FDLE investigators interviewed former House Page [REDACTED] in Oklahoma City. [REDACTED] confirmed that subsequent to his completion of the House Page program, he began communicating with Foley via instant message. Additionally, [REDACTED] stated that he used the AOL screen name "[REDACTED]" and Foley used the AOL screen name "MAF54" when communicating. [REDACTED] stated that he had contact with Foley via Instant message approximately three-four times per week.

[REDACTED] stated that the emails and the initial instant messages he received from Foley were casual questions such as what [REDACTED] was doing, how was school etc. According to [REDACTED], over time the content of the instant messages started to become more sexual in nature. [REDACTED] explained that the majority of sexually explicit messages he exchanged with Foley were sent when [REDACTED] was a senior in high school and seventeen years of age. [REDACTED] stated that he did not recall any emails from Foley that were sexual in nature, only instant messages.

[REDACTED] stated that he could not recall any specific sexual communications with Foley. However, [REDACTED] did recall that Foley would often ask questions regarding [REDACTED] sexual experience, sexual interests, masturbation, genitals, and whether [REDACTED] had a girlfriend.

[REDACTED] stated that he and Foley never engaged in any sexual activity or exchanged any pornographic images over the computer/internet. [REDACTED] stated that he advised Foley on several occasions that he was not eighteen years old and that he felt uncomfortable talking about explicit sexual acts.

████████ stated that he attended a Page Reunion in Washington D.C. around the weekend of February 15-16, 2003. Prior to attending the Page Reunion, ██████████ and Foley had communicated via instant messaging. Foley requested ██████████ meet him at his Washington D.C. apartment when ██████████ arrived in town for the Page Reunion. Foley indicated to ██████████ that he would give ██████████ a “blow job” during their meeting.

████████ stated that he did not meet Foley during the weekend he attended the Page Reunion. ██████████ stated that it was his understanding that Foley was not in town during the weekend of the Page Reunion due to a heavy snowstorm. ██████████ stated that he had decided not to meet with Foley that weekend as he had become concerned about the nature of their communications and did not want to engage in any sexual activity with Foley.

████████ stated that during February of 2003 he stopped instant messaging Foley on a regular basis. ██████████ stated that he informed Foley that he wanted their relationship to be more professional. It was ██████████ intention to stop having the sexually explicit communications with Foley. However, ██████████ wanted to stay in contact with Foley for assistance in obtaining references, employment etc. ██████████ stated that Foley quit sending him instant messages on a regular basis after ██████████ stopped instant messaging Foley.

████████ stated that he communicated with several other Pages after they left the Page program, via email and instant messaging. ██████████ stated that during the Page reunion, several other Pages told him that they too had similar “sexual” communications with Foley, via email and/or instant messaging. ██████████ identified the Pages as ██████████. These four individuals were interviewed by the FBI and the FBI did not indicate that anything in the interviews suggested behavior of interest to Florida investigators. Since Florida jurisdiction would be established only if the communications originated from, or were received in, Florida, the Florida nexus would be very limited. None of the four pages lived in Florida, and no evidence has been developed by FDLE or related to FDLE by the FBI that suggests any communications from Foley to the four other pages originated in Florida.

████████ stated that he confided in other Pages as to the nature/content of his communications with Foley. ██████████ stated that it was his understanding from speaking with other former Pages that Foley contacted them via email and instant messages after they left the Page Program as well.

████████ stated that he communicated with the other former Pages via telephone or instant messaging. ██████████ stated that he “cut and pasted” text from previous instant message communications with Foley and forwarded the text to several of the other former Pages. ██████████ stated that he had saved the instant messages on his computer hard drive, but the computer subsequently crashed, resulting in the messages being lost. ██████████ identified those Pages as ██████████. ██████████ stated that he sent the text to the other Pages in an instant message or as an attachment to an instant message.

████████ stated that as best he could recall, the other former Pages also sent him via instant messages, excerpts of their previous communications with Foley. Although ██████████ could not remember the specific details of the communications, he recalled that they were sexual in nature. ██████████ specifically recalled ██████████ forwarding him text of his communication(s)

with Foley. ██████ advised the investigators that he was confident that his computer crashing had permanently destroyed the messages and he no longer had access to any of the sexually explicit communications he had with Foley.

On July 27, 2007, FDLE received correspondence from legal counsel representing ██████. The correspondence expressed ██████ acknowledgement that there was no inappropriate physical relationship between him and Foley. Additionally, the correspondence stated that ██████ was in favor of a resolution in the Foley matter that did not include criminal prosecution.

### Additional Page Interviews

On October 19, 2006, at the request of FDLE, House of Representatives, Deputy General Counsel Kerry Kircher forwarded the names and contact information of former House Pages that were from the State of Florida and who were willing to have their contact information provided to FDLE. FDLE conducted telephone interviews of seventeen individuals who had served as House Pages from Florida during various time periods between 2000 and 2006. None of the seventeen individuals reported any inappropriate activity, conversations or internet communications involving Foley. FDLE also attempted to make contact with an additional seven former Pages, without success.

## FORENSIC ANALYSIS

### Foley's Computers

According to Steve Martin, former District Manager of Foley's Congressional District, subsequent to Foley's resignation from the United States House of Representatives on September 29, 2006, the Clerk of the House took custody of computer hard drives from Foley's Washington D.C. office and two Florida district offices. Pursuant to the Rules of the House, the "Office Computer Equipment" belongs to Foley and he was provided a copy of the data on each of the computer hard drives. Additionally, the Chief Administrator of the House retained back up tapes of emails sent to and from Foley's Washington D.C. office dating back to July 2005.

During the course of this investigation, FDLE made several attempts (both verbally and in writing) to obtain access to the computer documents (emails etc.) and computer equipment that the United States Government provided Foley during his time in office. On July 26, 2007, FDLE received a written response from the U.S. House of Representatives Office of the General Counsel that pursuant to the Speech and Debate Clause, of the U.S. Constitution, the U.S. House could not provide FDLE access to the equipment or back up tapes without authorization from Foley.

The response letter confirmed that the Clerk of the House had taken custody of Foley's computer from his Washington D.C. office, the hard drives from two district office computers, a non-current office server, back up tapes for the relevant House servers for the 14 days prior to Foley's resignation, and "certain" back up tapes from late July 2005. The letter identified that Foley's attorneys had searched the data from the computers and reported the results to the United States Department of Justice (DOJ). The letter also identified that a search of the back up tapes was

performed for DOJ and that no sexually explicit graphic attachments or embedded images were found. Additionally, the letter identified that DOJ is currently formulating search terms to be applied to the July 2005 back up tapes. Finally, the letter suggested that FDLE contact Foley's legal counsel and request access to view the mirrored copy of the data that was provided to Foley.

The Speech and Debate Clause is found in Article I, Section 6 of the U.S. Constitution, which provides in part: "The Senators and Representatives...shall in all cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session...and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other place." The courts, as recently as August 2007 (in a D.C. District Court of Appeals ruling on the Louisiana Congressman William Jefferson/FBI Investigation) held that the privilege protects Congress members from the government's use of seized documents related to their Congressional duties.

Since the Clerk of the House makes no determination between what is Congressional and what is personal on the mirrored image, it fell upon Foley to make it. Foley did apparently make such a determination and his attorney's voluntarily worked with the DOJ to search the data and report the finds of the search to DOJ. Despite attempts to work out a similar arrangement with Foley's attorneys, FDLE was unable to do so and therefore, FDLE has not reviewed any portion of the contents of Foley's computer.

However, the DOJ/FBI and FDLE agreed that should the efforts of either entity produce leads warranting investigation by the other, that the investigators would be advised that specific investigative efforts were warranted. FDLE has received no indication from the DOJ/FBI that there is anything of interest in the "non-Congressional" portion of Foley's computers that would constitute a violation of Florida law. The absence of an indication that there is anything of interest to Florida implies there is no "lead" or other "evidence" of significance to the state investigation on the mirrored computer information data.

In view of the inability of FDLE to obtain voluntary access to the Foley data, the only alternative left would be to seize the information under authority of a search warrant. However, there were no facts revealed in the investigation that would support probable cause to believe the non-privileged portion of Foley's computer contains evidence of a crime, no "specificity" of what that evidence would be, and there was ultimately no basis upon which to seek a search warrant. Since what would be sought was stored electronic communication, by law the materials could not be subpoenaed. (Even if subpoenaed, Florida's automatic use immunity granted to testimonial evidence would have complicated whether any information of interest could have been of value for prosecution.)

## INVESTIGATIVE FINDINGS

The primary focus of this investigation surrounded sexually explicit communications in the form of instant messages that were allegedly sent by Foley, from Pensacola, Florida on or around February 2-3, 2003, to former House Page [REDACTED]. There were no other allegations or information developed during this investigation that indicated Foley had engaged in sexually explicit communications (via email, instant messages etc.) or sexual activity with former House Pages or other individuals living in the State of Florida who were under the age of eighteen at the time of the communications or activity.

During the course of the investigation, [REDACTED] identified four other pages that might have received similar communications of a sexual nature from Foley. These four individuals were interviewed by the FBI and the FBI did not indicate that anything in the interviews suggested behavior of interest to Florida investigators. Since Florida jurisdiction would be established only if the communications originated from, or were received in, Florida, the potential Florida nexus would be very limited. None of the four Pages lived in Florida, and there is no evidence that has been developed by FDLE or related to FDLE by the FBI that suggests any communications from Foley to the four other pages originated while Foley was in Florida.

Analysis of Foley's U.S. House of Representatives calendar, U.S. House of Representatives Payment Vouchers and other information indicated that Foley was in the State of Florida on February 2-3, 2003, attending various events in and around Escambia County. Additionally, [REDACTED] recalled that Foley indicated in the instant message in question, that Foley was allegedly communicating from Pensacola, Florida. However, [REDACTED] could not recall specific details of the communication that occurred on that date or provide a copy of the instant message transcripts. Attempts were made to obtain transcripts of the instant messages from America Online, but it was learned that the instant message transcripts were, by AOL policy, not retained.

FDLE was not permitted by the U.S. House of Representatives to review any computer equipment or emails that Foley used while in office. However, the U.S. House of Representatives suggested that FDLE contact Foley's legal counsel and request to view a copy of the data that was provided to Foley. FDLE met with David Roth, attorney for Foley, in an attempt to gain voluntary access to Foley's computer equipment and files. Additionally, FDLE requested that Foley voluntarily allow FDLE to view non-congressional work papers/data from Foley's computers. Roth advised that it was not in Foley's best interest to comply with FDLE's request and voluntary access was not granted. Finally, [REDACTED] advised FDLE through his legal counsel that he did not wish to see Foley criminally prosecuted.

ABC News released transcripts of instant messages that Foley allegedly sent to [REDACTED] in February 2003. However, AOL does not retain transcripts of instant messages, [REDACTED] was unable to recover instant messages that he allegedly saved on his computer and Foley chose not to allow FDLE access to his computers to search for any saved instant message communications. Therefore, FDLE was unable to obtain authenticated transcripts of the alleged explicit instant messages.

FDLE presented Director Maureen Horkan of the Office of Attorney General, Child Predator

Cyber Crime Unit, a summary of this investigation for review. Director Horkan is an attorney and very well versed in prosecutions based on computer evidence. Director Horkan advised that because the allegations against Foley were isolated specifically to a single jurisdiction, Escambia County, the proper venue for prosecutorial review would be the State Attorney for the First Judicial Circuit of Florida. However, Director Horkan stated that upon review of the facts of the investigation, it appeared that any criminal allegations against Foley would not be prosecutable due to the statute of limitations.

The two primary criminal violations under review are third degree felonies. The 3-year statute of limitations ran on those violations in February of 2006. However, it is important to note that even if the statute of limitations had not run, there would be no prosecutable case. There are no original records of the "instant messages" received by [REDACTED]. [REDACTED] cannot testify with any certainty when messages from Foley were sent or whether they originated from Florida. As confirmed by Director Horkan, criminal violation of F.S. 847.0135 or F.S. 847.0138 cannot be proven beyond a reasonable doubt.

Director Horkan advised that the statute of limitations regarding the alleged inappropriate instant messages sent from Foley to [REDACTED] on February 2-3, 2003, would have expired on February 2-3, 2006. Additionally, Director Horkan advised that Florida State Statute 775.15 contains an exemption for the statute of limitations if the offense was based upon misconduct in office by a public official. Director Horkan stated that this statute did not apply to the Foley investigation because the allegations did not involve his official capacity as a United States Representative.

State Attorney William "Bill" Eddins of the First Judicial Circuit of Florida was also provided a copy of all investigative reports and supporting documentation for review. Upon review, State Attorney Eddins concluded that based upon the lack of obtainable evidence, there did not appear to be probable cause that a crime was committed in the First Judicial Circuit of Florida by Foley. Additionally, State Attorney Eddins concurred with Director Horkan that if probable cause had been discovered, prosecution would not be possible due to the expiration of the statute of limitations.

Based upon the findings presented in this investigative summary, no further action by FDLE is warranted.

# FLORIDA DEPARTMENT OF LAW ENFORCEMENT

## Investigative Update Print

<u>Case #</u>	<u>Case Name/Description</u>	<u>Inv. Update #</u>
EI-85-0004	Restricted Case	1

Inv. Update Date

07/31/2007

Author

O'Connell, Michael Edward

Brief Description

Meeting with State Wide on 7/25/07

Investigative Update

On 7/27/07, Inspector O'Connell, SAS Mike Phillips and SA Mike Duffey met with State Wide prosecutors Maureen Horkin and Brian Fernandez at the Attorney General's office in Tallahassee. The purpose of the meeting was an overview of the Foley case.

It was agreed by all parties that prosecution of this case would be difficult given the lack of admissible physical evidence and reluctance of the victim to cooperate.

Ms. Horkin agreed to brief State Attorney Bill Eddins (Pensacola) and to also contact the Attorney General and update him on the status of the case. SA Duffey will contact the victim's attorney and attempt to obtain a letter from him that outlines the victim's reluctance to pursue criminal charges.

It was agreed by all parties that FDLE and the AG should coordinate press releases should the state not prosecute this matter.



# FLORIDA DEPARTMENT OF LAW ENFORCEMENT

## Investigative Update Print

<u>Case #</u>	<u>Case Name/Description</u>	<u>Inv. Update #</u>
EI-85-0004	Restricted Case	2

Inv. Update Date  
09/19/2007

Author  
Mitchell, Mark Sanders

Brief Description

Phone conversation with State Attorney Bill Eddins

Investigative Update

On September 19, 2007, Inspector Mark Mitchell was telephonically contacted by State Attorney (SA) Bill Eddins regarding the review of the EI-85-0004 Investigative Summary. SA Eddins advised that he had reviewed the Investigative Summary and based upon the facts of the investigation, he declined to proceed with criminal prosecution of Mark Foley. Specifically, SA Eddins based his decision on the facts that the statute of limitations had passed on alleged criminal activity in the First Circuit of Florida and investigators had been unsuccessful in obtaining true copies of instant messages between Foley and House pages.

# FLORIDA DEPARTMENT OF LAW ENFORCEMENT

## Investigative Update Print

<u>Case #</u>	<u>Case Name/Description</u>	<u>Inv. Update #</u>
EI-85-0004	Restricted Case	3

Inv. Update Date  
09/25/2007

Author  
Mitchell, Mark Sanders

### Brief Description

Correspondence from Attorney for [REDACTED]

### Investigative Update

On August 27, 2007, Stephen Jones of the Jones, Otjen, Davis and Nixon Law Firm sent correspondence to FDLE Special Agent Mike Duffey on behalf of [REDACTED]. In the correspondence, Jones advised that [REDACTED] had acknowledged that there was no inappropriate physical relationship between [REDACTED] and Foley. Jones also stated that [REDACTED] favored a resolution to the investigation without criminal investigation or prosecution.

A copy of the letter will be maintained as Investigative Update Related Item number one of this investigative case file.

# FLORIDA DEPARTMENT OF LAW ENFORCEMENT

## Investigative Update Print

<u>Case #</u>	<u>Case Name/Description</u>	<u>Inv. Update #</u>
EI-85-0004	Restricted Case	4

Inv. Update Date  
04/29/2008

Author  
Mitchell, Mark Sanders

Brief Description  
Investigative Update

### Investigative Update

In September of 2007, the Case Inspector reported the completion of all unresolved investigative leads that had been identified through the course of the investigation with the exception of the issue of gaining unfettered access to the hard drive/server used by former Representative Foley. The case supervisor directed the case Inspector to prepare the case for closure and draft an investigative summary documenting the overall efforts to resolve the criminal issues identified in this case file.

In November of 2007, FDLE received a letter from a Florida Department of Corrections inmate who claimed to have information related to the criminal investigation of former Representative Foley. FDLE worked with the inmate's attorney to schedule an interview in January of 2008, and found that the inmate did not have any information relating to criminal activity by former Representative Foley. The inmate correspondence and interview were memorialized in the FDLE inmate correspondence case file, EI-73-7501, reports 69 and 73.

The case supervisor subsequently learned that FDLE command staff did not want to close the case with the unresolved issue of access to the hard drive/server and indicated that they would make another attempt to gain unfettered access to the hard drive/server by requesting assistance from the United States Speaker of the House.

During the months of December through February of 2008, correspondence and telephone calls were exchanged between FDLE and representatives from the House of Representatives General Counsel's Office in an attempt to gain unfettered access to the hard drive/server. The exchanges were memorialized in Investigative Reports 13 through 15. FDLE was unable to gain the requested access.

Final determination was made by FDLE command staff that all investigative efforts had been exhausted. Case files were reviewed and portions redacted, pursuant to chapter 119 exemptions, in preparation for public disclosure/dissemination.

# FLORIDA DEPARTMENT OF LAW ENFORCEMENT

## Investigative Update Print

<u>Case #</u>	<u>Case Name/Description</u>	<u>Inv. Update #</u>
EI-85-0004	Restricted Case	5

Inv. Update Date  
08/11/2008

Author  
Mitchell, Mark Sanders

Brief Description

Information provided to State Attorney's Office

Investigative Update

On May 29, 2008, Chief Inspector Mark Perez provided information to Chief Assistant State Attorney Paul Zacks (Fifteenth Judicial Circuit) via facsimile. The information provided to Chief Zacks had been provided to FDLE by Florida Department of Corrections Inmate Hector Rosa and documented in FDLE case number EI-73-7501. Chief Inspector Perez requested that Chief Zacks review the information provided by Rosa and determine if the information warranted further investigation.

Later on May 29, 2008, Chief Zacks telephonically contacted Chief Inspector Perez and advised that after reviewing the information, he had identified no criminal activity that would warrant further investigation. Additionally, Chief Zacks stated that even if a criminal predicate had been established, the activity reported by Rosa allegedly occurred in 1997, and therefore statutes of limitations would have expired.

On August 8, 2008, Inspector Mark Mitchell made contact with the United States Department of Justice (DOJ) regarding the status of the DOJ investigation. Inspector Mitchell was advised that the DOJ had concluded the investigation on July 30, 2008.

# FLORIDA DEPARTMENT OF LAW ENFORCEMENT

## Administrative Log Print

<u>Case #</u>	<u>Admin Log #</u>	<u>Case Name/Description</u>
EI-85-0004	1	Restricted Case

<u>Author</u>	<u>Admin Log Date</u>
Lawson, Travis Lee	12/21/2006

### Brief Description

Information Provided to ASWP Maureen Horkan on December 20, 2006

### Narrative

On Wednesday, December 20, 2006, Inspector Lawson forwarded to ASWP Maureen Horkan a copy of all Investigative Reports under FDLE Case Number EI-73-6887 and Investigative Reports 1-5 in FDLE case number EI-85-0004. Inspector Lawson also included a copy of the FBI's summary, copies of the Instant Messages between Foley and former Congressional Page [REDACTED] and a synopsis of the investigation as of December 20th. The information was forwarded via Airborne (DHL) Express ref # 621001200.10/ WB: 75768431093

# FLORIDA DEPARTMENT OF LAW ENFORCEMENT

## Administrative Log Print

<u>Case #</u>	<u>Admin Log #</u>	<u>Case Name/Description</u>
EI-85-0004	2	Restricted Case

<u>Author</u>	<u>Admin Log Date</u>
Mitchell, Mark Sanders	01/24/2008

### Brief Description

Telephone contact from Kerry Kircher

### Narrative

On January 24, 2008, Chief Inspector Mark Perez was contacted by United States House of Representatives Deputy General Counsel Kerry Kircher. Kircher contacted Chief Perez as a follow up to January 15, 2008 letter sent to Chief Perez from Kircher. Kircher wanted to emphasize that the House wanted to cooperate with the FDLE investigation. However, the Speech and Debate Clause of the Constitution prohibited the House of Representatives from providing unfettered access to computers possessed by Foley.

Chief Perez emphasized that FDLE understood that the House could not release the computers without permission of Foley. However, Chief Perez explained to Kircher that it would be highly unusual for criminal investigators to allow the subject of an investigation the opportunity to filter information requested by law enforcement which would determine if criminal activity had occurred. Kircher advised that the only way FDLE could be provided unfettered access to computers formerly assigned to Foley would be if Foley waived his rights provided under the Speech and Debate Clause.

FDLE previously met with David Roth, attorney for Foley, in an attempt to gain voluntary access to Foley's computer equipment and files. Additionally, FDLE requested that Foley voluntarily allow FDLE to view non-congressional work papers/data from Foley's computers. Roth advised that it was not in Foley's best interest to comply with FDLE's request and voluntary access was not granted.

# FLORIDA DEPARTMENT OF LAW ENFORCEMENT

## General Case Profile Print

**Case #**  
EI-85-0004

**Case Name/Description**  
Restricted Case

**Case Type**  
Major

**Case Status**  
Closed

**Case Status Reason**  
Unfounded - Resolved

**Case Status Date**  
09/12/2008

**Date Opened**  
10/25/2006

**Date Closed**  
09/12/2008

**Date Re-Opened**

**Case Agent**  
Lawson, Travis Lee

**Region**  
Executive Investigations

**Office**  
Executive Investigations

**Squad**  
E

**Task Force**

**Approval Status**  
LeFiles, Robert J.

**Approval Action By**  
LeFiles, Robert J.

**Flag Case**  
No

**Juvenile Case**  
No

**Restricted Case**  
Yes

**Case Origin**  
Spin-Off Investigation

**Spin Off From Case #**  
EI-73-6887

**Providing Person**

**Counties Involved**  
Escambia  
Out of State  
Palm Beach  
St. Lucie

**Investigative Techniques Used**

**Other FDLE Offices Assisting**

**Highlights Selected**  
Computer Involved  
Crimes Against Children

**Primary Activity Code**  
Computer Related Crimes

**Secondary Activity Codes**

**Investigative Focus**  
Violent Crime

**Jurisdiction**  
Inter-State

### **Related Cases**

**Case #**  
EI-73-6887

**Case Name/Description**  
Restricted

**Case Agent**  
Lawson, Travis Lee

# FLORIDA DEPARTMENT OF LAW ENFORCEMENT

## General Case Profile Print

### Case Closing Information

**Reason Case Closed**

Unfounded - Resolved

**Date Case Closed**

09/12/2008

**Closing Approved By**

Perez, Mark Matthew

**Reg/Admin**

**Sanctions**

No

**Fugitive**

**Outstanding**

No

**Retention Review**

No Arrests Made

**Retention**

**Review Date**

09/12/2013

**Victim**

**Monetary Loss**

\$0.00

**Economic Impact Description**

No economic impact

### **Case Closing Synopsis / Outcome**

At the conclusion of the investigation into allegations that Former United States Representative Mark Foley had inappropriate communications with House Pages, this case will be closed with no arrests or prosecution. Due to House of Representative rules restricting access to Foley's computers, investigators were unable to obtain true transcripts of instant messages allegedly sent by Foley. Additionally, the only allegation with a nexus to Florida involved instant messages that were allegedly sent from Foley to a former House Page on February 2-3, 2003. If FDLE would have been successful in obtaining true copies of the instant messages, prosecution would not have been possible due to the three year statute of limitations.

At the conclusion of this investigation, an investigative summary was presented to the State Attorney for the First Judicial Circuit of Florida and the Office of the Attorney General of the State of Florida. Upon review of the summary, both prosecutorial entities concurred that, based upon the lack of available evidence, prosecution of Foley regarding allegations with a nexus to the State of Florida was not feasible.

Information was received from a Florida Department of Corrections inmate who alleged to have first hand information regarding Foley having inappropriate contact with unknown persons at his WPB Florida Congressional office. This information was forwarded to Chief Assistant State Paul Zacks (Fifteenth Judicial Circuit) for review. On May 29, 2008, Chief Zacks advised that after reviewing the information, he had identified no criminal activity that would warrant further investigation.

On August 8, 2008, FDLE was notified by the United States Department of Justice (DOJ) that their investigation into the Foley allegations had concluded on July 30, 2008. The DOJ did not provide FDLE with any additional information or evidence against Foley to warrant further investigation by FDLE within the State of Florida.

No further action will be taken into this matter and this case will now be deemed closed.