

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR DESOTO COUNTY, FLORIDA**

MICHAEL BARFIELD,

Petitioner,

CASE NO.: 2016-CA-000291

v.

**ASHLEY COONE, in her official capacity
as CLERK OF THE CIRCUIT COURT
FOR DESOTO COUNTY,**

Respondent.

FINAL JUDGMENT ISSUING MANDAMUS

THIS CAUSE came before the court September 18, 2018, upon the Petition of Michael Barfield against the Clerk of Desoto County Courts requesting a writ of mandamus pursuant to Fla. R. Civ. P. 1.630, and upon an alternate writ of mandamus issued by the Honorable Kim Bonner.

I. Background

On June 16, 2016, Michael Barfield, a citizen of Florida, filed a Petition for Mandamus against the Desoto County Clerk of Courts, Ashley Coone, seeking public records related to all cases since January 1, 2010 in which orders had been entered determining the confidentiality of court records.

The Petition cited a chain of email communications between Petitioner and Mitzie McGavic, the elected Clerk, beginning in December of 2014. On December 29, 2014, the Clerk provided an initial list of 17 criminal case numbers, but no civil or domestic relation matters. [Petition, Ex. 2, McGavic email dated 12/29/14.] Emails were infrequent at times and there were periods of inactivity between the parties and the matter lay dormant.

On February 4, 2015, Ms. McGavic announced that Mr. Barfield had "received the entire list" requested, and said:

I have search (sic) further and do not see any civil or domestic that were sealed. I asked the Deputy Clerk and most said they do not get orders to seal; some said that they had never had one filed in their division or it had been a very long time. I will continue searching my record, but it appears to be very uncommon.
[Petition Ex. 2.]

Petitioner persisted, requesting a master list of all civil cases where an order to seal had been * entered. Finally, on February 13, 2015, Ms. McGavic emailed that she had "complied with your

public request to the best of my and the system's ability." [Petition Ex. 2.] Several additional demands were made without success.

In October of 2015, after many years of service, Mitzie McGavic resigned her office leaving a vacancy. At the time, Nadia Daughtrey was a deputy clerk with 17 years' experience. She was designated Interim Clerk by the Chief Judge on October 1, 2015, and she served in that capacity until Governor Scott appointed Ashley Coone to the office commencing June 8, 2016.

On May 23, 2016, during Daughtrey's tenure as Interim Clerk, Mr. Barfield directed a request for production of the orders to her, but 15 days later, Ms. Coone assumed the office. Petitioner renewed his demand on June 13, 2016, directing his email to Ms. Daughtrey who had just resigned to run against the governor's appointee.

Ms. Coone held the office for about 18 months. During that time she engaged in the search for Petitioner's requested records resulting in a letter from her counsel on August 16, 2016, referenced below. The incumbent filed for election but was defeated in the November 2016 election. Daughtrey assumed office on January 3, 2017.

On July 27, 2016, Judge Bonner reviewed Barfield's Petition and having found a prima case for relief issued an alternative writ directing Ms. Coone to show cause why mandamus should not issue.¹

Ms. Coone filed her Answer to the alternative writ on August 19, 2016. Essentially, the Clerk's response was that there had been compliance with Petitioner's request "to the best of her ability and with programs currently in use." [Answer, paragraph 4; see also, paragraph 27.] The response pointed out that the Interim Clerk had complied with the requests. This was referenced in an August 16, 2016 letter from counsel citing a list of seven criminal cases, felony and misdemeanor (CF and MM), and five domestic relation (DR) cases representing "the fruits of [Coone's] labor." [Answer, Ex. A.]

On November 9, 2016, Judge Bonner entered an "Order Denying Petition for Writ of Mandamus, in Part, and Directing Matter to be Set for Evidentiary Hearing." On her review of the record she observed that according to Petitioner, Respondent had not "either (1) posted all sealed cases in conformance with Fla. R. Jud. Admin. 2.420(e)(4); or (2) produced the complete list of sealed civil and domestic relations cases since January 2, 2010." [Order Denying, p. 3.]

For reasons explained in the Order, the Petition was denied to the extent that it requested an ongoing duty on the part of the Clerk. However, an evidentiary hearing was required because questions remained as to whether the Clerk had completely responded to Barfield's requests, and if not, whether Respondent had the capability to do so with current computer-program capabilities. [Order Denying, p. 5.]

¹ The requested expedited hearing available under section 119.11(1), Fla. Statutes, was denied.

December 19, 2016 was set for an evidentiary hearing on the show cause order. On that date, the parties appeared amenable to resolving disputed issues, including discovery matters, so the hearing was deferred.

Nothing was reported to the judge for several months. She followed up with an order requiring a status report on their negotiations within 20 days of March 7, 2017.

On March 30, 2017, the Clerk's attorney filed a letter with an exhibit containing 192 entries: 15 cases under the title "Sealed & Confidential Images," and 177 described under the title "Sealed & Confidential Cases." [Exhibit 2, Final Hearing, 9/18/18.]

On April 5, 2017, Ms. Daughtrey's Affidavit, dated March 31, 2017, was submitted. In it she repeats the position of her predecessors. She averred that her office does not keep and has no access to a separate record of civil or domestic cases in which a seal order has been rendered. However, she said she has access to a list of all cases in which a court order has been entered determining the confidentiality of court records. [Clerk affidavit, pp. 2-3.]

Ms. Daughtrey referenced the August 16, 2016 list previously provided by Ms. Coone's attorney, and the results of her own search she filed with the court on March 30, 2017. The latter was represented as "a complete response to Petitioner's request based on current computer programs currently at my disposal." She states "No further responsive information can be provided with the capability of computer programs at my disposal." [Clerk affidavit, p. 3.]

The evidentiary hearing was reset by Judge Bonner for June 19, 2017 where Mr. Barfield testified in support of many of the allegations in his petition. Ms. Daughtrey was examined by Petitioner's attorney, but her testimony was cut short and other witnesses not questioned due to lack of time on the court's calendar. It was contemplated that the matter would reconvene at a later date.

On October 12, 2017, Judge Bonner disqualified herself from the case and the Chief Judge appointed the undersigned senior circuit judge as successor.

A status conference was held on February 15, 2018. Thereafter the court entered an order setting a Pretrial Conference and authorizing depositions of the three Clerks who were in office during the time Petitioner was requesting public records. On April 11, 2018, Ms. Daughtrey was the only one deposed.

At the February hearing, Ms. Daughtrey explained that her office has technical and procedural limitations that prevent her from accessing all the information being sought by Mr. Barfield. Consequently, the Status Conference Order directed the Clerk as follows:

Respondent shall inquire into the feasibility of retaining a qualified expert for the purpose of determining if the clerk's official computers, case management system, and dockets have the capacity to be searched to locate documents requested by Petitioner, in addition to those already produced. In a Notice of Filing, on or before **May 1, 2018**, Respondent shall advise the court what steps

she has taken to comply with this paragraph, and the projected expense, if any, required to conduct the search. The court takes no position as whether such a search will be required, nor whether a party will be required to bear the related expense. [Status Conference Order, paragraph 3.]

On May 1, 2018, in a Notice of Filing the Clerk “informs the court that the official computers, case management systems, and dockets at her immediate disposal did not allow her access to the information requested by Petitioner.” [Notice, 5/1/18, paragraph 3.] She says she inquired of Civitek, which powers Clericus, the Case Management System (CMS) owned by the Florida Association of Clerks, and reaffirmed that the list she provided on March 30, 2017 “was, in fact, the most complete, responsive list that was able to be provided to Petitioner. According to Civitek, it was/is.” [Notice, 5/1/18, paragraphs 4 & 6.]²

A final hearing on the alternative writ occurred September 18, 2018. Ms. Daughtrey testified and the parties stipulated the court could consider her deposition and the transcript of the abbreviated hearing before Judge Bonner on June 19, 2017.³ Two exhibits were admitted by Petitioner: Respondent’s Response to Petitioner’s Request for Production, with attachments [Exhibit 1], and a copy of Ms. Coone’s March 30, 2017 attorney’s letter with 192 files listed by case number [Exhibit 2].

The Exhibit 1 attachments are copies of thirteen orders sealing records: one order relates to a mental health treatment report in a civil case; one order seals two DR cases; an order grants confidentiality of medical information; an order seals a record of the Desoto sheriff relating to a missing person; one order determines confidentiality in a probate case; seven orders seal matters in domestic relation cases; an order seals a record in a civil case.⁴ All orders were entered during Ms. McGavic’s term of office except two that were filed in May and early June of 2016 at the end of Ms. Daughtrey’s interim service.

Comparison of the two trial exhibits indicates that copies of orders attached to Exhibit 1 are identified by the same case numbers on Exhibit 2. Under controlling legal principles granting citizen access to judicial records, none of the documents produced in Exhibit 1 appear to qualify for public invisibility or non-recognition by the Clerk’s CMS or official progress docket.

At the evidentiary hearing on September 18, 2018, Ms. Daughtrey stated her view that there is a distinction between “confidential” files and “sealed” files. The former is composed of some of the 22 categories of cases or subject matter listed on Exhibit A to this order. In the context of this case, these relate to statutorily protected actions like adoptions, dependency, Baker Acts, and juvenile delinquency cases. Petitioner has no interest in these. The Clerk says the latter category refers to cases a judge orders to be sealed. These are ones that may be subject to treatment

² In late May, 2018, Barfield’s attorney withdrew and he proceeded *pro se*.

³ Ms. Daughtrey’s April 11, 2018 deposition transcript with agreed redactions was filed on 10/5/18.

⁴ Also included in the Exhibit 1 production was an order denying confidentiality.

pursuant to Rule of Jud. Admin. 2.420(e), like those in Exhibit 1. This is the list Mr. Barfield seeks.

As to “sealed” cases, once the order is entered the Clerk says she has no way to access such files without a court order. She has no means in-house with her existing CMS to extract a list with case numbers or even to identify the files that have been judicially sealed. [Daughtrey deposition, 4/11/18, p. 66-67.] Like the two chief executive Clerks before her, she asserts it is beyond her office’s capabilities to search further than her predecessors. In other words, while eager to comply with Petitioner’s requests and acting in good faith, she is stymied by deficiencies in her Case Management System and limitations of staff and office operations.

So, in this instance, she cannot do a privacy search for sealed cases from her desk. [Daughtrey deposition, 4/11/18, p. 60.] In order to comply with Petitioner’s request she had to request the assistance of Civitek, which apparently has the required software. However, the list it produced in March of 2017 [Trial, Exhibit 2] commingles “confidential files” [Ex. A to this order] and “sealed files.” The Clerk has no way to efficiently segregate the two.

According to Ms. Daughtrey, she would have to go through each of the 192 cases on the Civitek list seriatim to determine which ones have been judicially sealed. Then, she maintains, after identifying a sealed file, before she could examine the documents in the file, she would have to be court ordered. Thereafter, she would have to notify the litigants so they have an opportunity to appear and object. [Daughtrey testimony, 9/18/18.]

II. Conclusions of Law

Here is what Petitioner has requested for the period January 1, 2010 through June 16, 2016:

Pursuant to Chapter 119 and Art. I, Sec. 24(a). Fla. Const., please provide me with a list of all cases in which a court order has been entered determining the confidentiality of court records since January 1, 2010. [Petition, paragraph 6.]⁵

The question before the court is whether the extraordinary writ of mandamus should issue to require the Clerk to produce such a list. The problem here is that judicial seal **orders** and their corresponding **case numbers**, as opposed to the **contents** of the electronic or papers filed, are public records and currently are not identified, visible, or readily distinguishable in the Clerk’s CMS or official progress docket. For members of the public who make proper inquiry, this unduly impedes access to information to which they are otherwise entitled.

Mandamus lies to compel a lower official to perform a clear ministerial duty. See, *Pleus v. Crist*, 14 So. 3d 941, 945 (Fla. 2009); *Jacobs Keeley, PLLC v. Chief Judge of the Seventeenth Judicial Circuit*, 169 So. 3d 192, 193 (Fla. 4th DCA 2015); *City of Tarpon Springs v. Planes*, 30 So. 3d 693, 695 (Fla. 2d DCA 2010).

⁵ During the course of litigation, Mr. Barfield agreed to limit his request to a list of sealed orders in civil cases, including domestic relations, probate, and guardianship matters.

A party seeking mandamus relief must establish a clear legal right to performance of the act requested, an indisputable legal duty, and no adequate remedy at law. *Jacobs Keeley, PLLC*, 169 So. 3d at 193; *Smith v. State*, 696 So. 2d 814, 815 (Fla. 2d DCA 1997).

The Clerk of Court has a legal duty to maintain and to provide access to the records contained in its files, unless the records are legally exempt from disclosure. § 28.01 et seq., Fla. Stat.; Fla. R. Jud. Admin. 2.420; *Blackshear*, 115 So. 3d at 1094; *Radford*, 914 So. 2d at 1968. A Petition for writ of mandamus is, therefore, the proper vehicle for enforcing a right to access court records from the Clerk of Court. *Blackshear*, 115 So. 3d at 1094.

Requests for non-exempt documents must be made with sufficient specificity to allow the records custodian to identify the proper materials. See Fla. R. Jud. Admin. 2.420(m)(1). The custodian may also determine the form in which the records are provided and assess fees where applicable, Fla. R. Jud. Admin. 2.420(m)(2) & (3). A court will evaluate efforts to comply with a records request in the context of whether the Petitioner provided sufficient scope for the materials and assisted in the search process, if such assistance would have aided the custodian. See *Jacobs Keeley, PLLC*, 169 So. 3d at 193.

Here, Petitioner's request is sufficiently precise. For the period requested there is a clear legal duty imposing on the Clerk the ministerial responsibility of providing a list of cases in which court orders have been entered determining confidentiality, specifically those sealing domestic relation files, civil, probate and guardianship matters. The request for a list by case number, rather than for copies of the orders themselves, is reasonable and should not be time-consuming, expensive, or burdensome for the custodian of judicial records to assemble.

Section 28.211, Fla. Stat., says:

The clerk of the circuit court shall keep a progress docket in which he or she shall note the filing of each pleading, motion, or other paper and any step taken by him or her in connection with each action, appeal, or other proceeding before the court. The clerk may keep separate progress dockets for civil and criminal matters. The clerk shall keep an alphabetical index, direct and inverse, for the docket.

There is no such progress docket maintained by the Desoto Clerk, at least one in a form that allows the ready extraction or identification of information disclosing information or lists like those Petitioner requested. The referral of requests such as Mr. Barfield's to Civitek does not comport with section 28.211, as the Desoto Clerk's version is not a progress docket maintained by or even accessible to her.

There may be a class of entries exempt from public progress dockets under the on-line security matrix protocols, but the ones requested by Petitioner are not.

Also, section 28.13 Fla. Stat. requires the Clerk to maintain all papers and electronic filings in her office with "the utmost care and security." The rare order sealing a case is treated like the mass of incoming unsealed orders and is indistinguishable by publically visible docket entries.

[Daughtrey deposition, 4/11/18, p. 49.] A CMS that does not permit ready identification and reasonably prompt retrievable of Motions to Determine Confidentiality of Court Records and orders granting such relief, or which is incapable of compiling a list discriminating “confidential” files from judicially sealed ones, falls far short of “utmost care.”⁶ Such a practice should not exempt Clerks from non-compliance with public records requests such as the ones at issue in this case.

What is implicit in this jurisprudence is that responding Clerks have the presumed ability to provide access to the type of public information requested by Petitioner through the use of their own internal resources. In this case, “lack of capacity” or the establishment of office procedures, software, or other electronic applications that make access to public records time-consuming or reliant on outside vendors are not acceptable excuses for non-compliance with the Constitution, controlling statutes, and rules of procedure.

While a reasonable time should be permissible for compliance, the convoluted exertions the Clerk has to engage in here do not comport with the duty the law imposes on official custodians of judicial branch records.

An argument could be advanced that mandamus is moot because the Clerk now has complied. However, the history of this case does not inspire confidence that a complete list of sealed cases has been provided. It may be that the Clerk’s production to date is reliable and trustworthy. However, the following summarizes the chronology of disclosures, raising the specter that more data yet may be buried:

February 13, 2015: Clerk McGavic stands by her December 29, 2017 email that disclosed 17 criminal case numbers with sealed orders. She suggests there are no locatable civil or domestic relations sealed cases.

August 19, 2016: Clerk Coone discloses 12 cases with sealed orders, 7 criminal cases and 5 domestic relation cases. Her search revealed nothing else, suggesting there are no more.

March 30, 2017: After out-sourcing the search to Civitek, Clerk Daughtrey produces a list of 192 case numbers which commingle R. Jud. Admin. 2.420(c) confidential cases with possible Rule 2.420 (e) sealed case numbers, including some presumably sought by Petitioner. This was a “complete response.”

July 26, 2018: In response to a Notice to Produce, Clerk Daughtrey produces copies of 13 orders sealing cases. These documents link to the March 30, 2017 list of case numbers. This suggests there is a procedure to distinguish “sealed” orders from “confidential” ones as defined by the Clerk.

⁶ See, Fla. R. Jud. Admin. 2.420(e), Request to Determine Confidentiality of Trial Court Records in Noncriminal Cases.

It is not established that the Clerk's office is organized and equipped today in such a way as to enable its chief executive to track, access, and with relative ease produce public information of the type requested by Petitioner. In fairness, she inherited this public records litigation from her predecessors, and is limited by the practical limitations of researching office protocols for six years during which, except for a few months as Interim Clerk, she was not the head of the office. Moreover, she says she has instituted corrective innovations that will improve the ability to comply in the future.

This may be the case, but mandamus should issue to confirm the legal duty, and to insure that full compliance with Petitioner's request in fact has occurred. He is entitled to a complete list and there remains the issue of whether the current and past excavations by the three Clerks have produced it.

The claim that the office lacks the capacity to provide a list of these public records is neither condonable nor persuasive without convincing proof that for good and sufficient reasons the Clerk cannot comply more thoroughly and efficiently. Whether such reasons exist or are legally sustainable remains an open question.

NOW, THEREFORE, there being no other adequate remedy at law, it is **ORDERED** that **MANDAMUS** issue, and that the Desoto Clerk of Courts shall provide Petitioner a complete list of sealed orders by case numbers in the following categories: Civil, Domestic Relations, Probate, and Guardianship matters. This shall be accomplished on or before **November 16, 2018**. Compliance shall be by the Clerk filing a Notice certifying that:

- (1) In addition to those already disclosed, no other case numbers of sealed cases have been found; or,
- (2) An additional list of sealed cases has been located and attached to the Notice.

The court reserves jurisdiction to enforce this order and to assess costs.

DONE AND ORDERED in Chambers in Arcadia, Desoto County, Florida, this 10th day of October 2018.


LEE E. HAWORTH
Senior Circuit Judge

cc:

Michael Barfield, Petitioner, *pro se*
mbar62@gmail.com

Kenneth Hancock, Esq., Attorney for Respondent
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EXHIBIT A
FINAL JUDGMENT ISSUING MANDAMUS
BARFIELD V. COONE
DESOTO CIRCUIT COURT CASE NO. 2016CA000291

LIST OF CONFIDENTIAL DOCUMENTS

"THE LIST OF 22"

1. **DEPENDENCY (2.420(d)(1)(B)(i)):** Includes termination of parental rights, guardians ad litem, child abuse, neglect, and abandonment Access: Child, parents, attorney for child, court-appointed guardians, SAO, law enforcement, DCF.
2. **ADOPTION FILES (2.420(d)(1)(B)(ii)), FS 63.162:** Provide access in accordance with the Matrix, which is part of the Florida Supreme Court AO and is, therefore, a court order that complies with the statute limiting access without a court order. This applies to open cases. On closed cases, a court order is required to view records as the attorney of record is automatically dismissed 30 days after it is closed.
3. **SSN, BANK ACCT, CHARGE, DEBIT & CREDIT CARD #s (2.420(d)(1)(B)(iii)):** Access: Parties, attorneys of record.
4. **HIV (2.420(d)(1)(B)(iv)):** Includes test results and ID of any person upon whom an HIV test has been performed. Access: Test subject and his/her attorney ONLY. Any other parties cannot see HIV test results.
5. **SEXUALLY TRANSMISSIBLE DISEASES (2.420(d)(1)(B)(v)):** Records including test results held by DOH or its authorized representatives. Access: Test subject, attorneys of record, medical/state agencies in medical emergencies for benefit of law enforcement, firefighters etc.
6. **BIRTH AND DEATH RECORDS (2.420(d)(1)(B)(vi)):** Birth and portions of death and fetal death records. ACCESS: Parties, attorneys of record.
7. **PREGNANCY TERMINATION BY MINOR (2.420(d)(1)(B)(vii)):** Information that can be used to identify a minor petitioning for a waiver of parental notice when seeking to terminate pregnancy. Access: Petitioner, petitioner's attorney. Parents of petitioner ARE NOT allowed access!
8. **BAKER ACT RECORDS (2.420(d)(1)(B)(viii)):** Clinical records in Baker Act cases. Access: Patient, patient's attorney, patient's court-appointed guardian or court-appointed guardian advocate, SAO.
9. **SUBSTANCE ABUSE RECORDS (2.420(d)(1)(B)(ix)):** Records of substance abuse providers that pertain to the identity, diagnosis, and prognosis of and service provision to individuals and all petitions, court orders, and related records for involuntary assessment and stabilization of an individual, § 397.6760, Fla. Stat. Access: Patient, attorney of record, medical personnel in medical emergencies.
10. **CLINICAL RECORDS (2.420(d)(1)(B)(x)):** For Defendant in criminal case found incompetent to proceed or acquitted by reason of insanity. Access: Patient, patient's court-appointed legal guardian, patient's attorney, law enforcement, SAO, defense attorneys of record, judges, jail personnel, community services re follow up care.
11. **ESTATE INVENTORIES AND ACCOUNTINGS (2.420(d)(1)(B)(xi)):** Access: Court-appointed personal representatives and their attorneys and other attorneys of record.
12. **DOMESTIC VIOLENCE (2.420(d)(1)(B)(xii)):** Victim's address upon request by victim/petitioner. Access: Petitioner and petitioner's attorney only. Respondent is not to have access even though he/she is a party!
13. **CHILD ABUSE & SEXUAL OFFENSES (2.420(d)(1)(B)(xiii)):** Victim Identification Information. Sexual Offenses include Sexual Battery (FS 794), Lewdness, Indecent Exposure (FS 800), Child Abuse, Aggravated Child Abuse (FS 827), Sexual Performance by a Child, Obscenity (FS 847). Information to be redacted (ADULT & MINOR Victims): Photograph, Name, Home and/or Employment Address, Home and/or Employment Phone Numbers. In addition, MINOR VICTIMS

of sexual offenses are entitled to have the following redacted: Videotapes of the victim, School, Church, Place of Employment Addresses and Telephone Numbers. Access: Parties, attorneys of record, SAO, law enforcement.

14. **GESTATIONAL SURROGACY** (2.420(d)(1)(B)(xiv)): Access: Parties, attorneys of record.
15. **GUARDIANSHIP** (2.420(d)(1)(B)(xv)): Reports and orders appointing Court Monitors. Access: Guardianship reports: To court-appointed guardian and guardian's attorney of record, ward (unless a minor or incapacitated) and ward's attorney. Orders appointing Court Monitors and orders relating to findings of no probable cause in GA cases: Only by court order.
16. **GRAND JURY RECORDS** (2.420(d)(1)(B)(xvi)): Access: Only by court order. Also see, Informal AGO issued on September 8, 1995, determining that the names and addresses of grand jurors are privileged as part of the record of the grand jury proceedings.
17. **FAMILY SERVICES FOR CHILDREN (CINS/FINS cases)** (2.420(d)(1)(B)(xvii)): Access: Parties, attorneys of record.
18. **JUVENILE DELINQUENCY** (2.420(d)(1)(B)(xviii)): Access: Parties, attorneys of record, SAO, military representative with an original signed waiver of the defendant (always make a copy of the waiver for the file.) This includes protecting sexting violations by minors under FS 847.0141(1), which require a "promise to appear before the juvenile court," per 985.0301, which adds noncriminal violations assigned to juvenile court by law to the jurisdiction of the juvenile court. If these cases are not filed in the Juvenile division, then they will need to be identified and separately protected.
19. **TUBERCULOSIS** (2.420(d)(1)(B)(xix)): Records disclosing the identity of persons subject to tuberculosis proceedings and records held by DOH or its authorized representatives relating to know or suspected cases of tuberculosis or exposure. Access: NO ONE has access without a court order. Access can be given by Court Order to those not allowed access by statute. In that case, identify the Court Order, check ID for that person and make a copy of the person's ID for the file before allowing access.
20. **PRESENTENCE INVESTIGATION REPORTS (PSIs)** (2.420(d)(1)(B)(xx)): Complete PSI reports. Access: Sentencing Court, SAO, defendant, and defendant's attorney. Fla. R. Crim. Proc. 3.712 also allows viewing to persons or agencies having a legitimate interest in the information in the PSI, which could include a probation officer. Requests made under this provision will need to be addressed on a case-by-case basis.
21. **FORENSIC BEHAVIORAL HEALTH EVALUATIONS** under FS 916.1065, for defendants charged with felony and found to be incompetent to proceed, including competency, substance abuse, psychosexual, psychological, psychiatric, psychosocial, cognitive impairment, sanity, or other mental health evaluation individual. Access: Parties, attorneys of record.
22. **DRUG COURT REPORTS**, including reports regarding eligibility screening, substance abuse screening, behavioral health evaluations, and treatment status reports for defendants referred to or considered for referral to a drug court program. FS 397.334(10)(a). Access: Parties, attorneys of record.

DOCUMENTS PROTECTED IN RULE 2.420(c)(6)

Rule 2.420(d)(1) protects information in (d)(1)(B), which is the list of 22, but also protects information in (d)(1)(A), which includes the records in 2.420(c)(1)-(6). The records in (c)(1)-(5) are primarily records in the hands of court administration or individual judges, such as judge's notes on a file. However, clerks hold search warrants and arrest warrants covered in 2.420(c)(6). Rule 2.420(b)(4) allows confidential information released to those designated by law, statute, or court order.