

when these amendments were effected, the attempt statute, §776.04, F. S. (1972 Supp.), did not cover an attempt to commit a "life felony," and the legislature has not amended it to cover such an attempt. The result is that it is not unlawful to attempt to commit a life felony and your question must be answered in the negative. It is respectfully suggested that the legislature, while presently in session, should address itself to this problem and amend §776.04 so as to include an attempt to commit a life felony.

Even though it is not at this time a crime to attempt to commit a life felony, I point out that in some instances where there is an attempt to commit a life felony, there is also an assault with intent to commit that felony. In such a situation, the defendant is subject to prosecution under the last sentence of §784.06, F. S., which section provides:

**784.06 Assault with intent to commit a felony.**—Whoever commits an assault on another, with intent to commit any capital felony or felony of the first degree shall be guilty of a felony of the second degree, punishable as provided in §775.082, §775.083, or §775.084. *An assault with intent to commit any other felony constitutes a felony of the third degree, punishable as provided in §775.082, §775.083, or §775.084.* (Emphasis supplied.)

073-111—April 11, 1973

#### PUBLIC DEFENDER

#### REPRESENTATION OF INDIGENT DEFENDANT IN MUNICIPAL COURT

To: *B. L. David, City Attorney, Hollywood*

Prepared by: *Reeves Bowen, Assistant Attorney General*

#### QUESTION:

**Does a public defender have the authority to assign an assistant public defender to represent indigent defendants in a municipal court?**

#### SUMMARY:

**A public defender is not authorized to assign one of his assistants to represent indigent defendants in a municipal court.**

Section 27.51(1), F. S., as amended by §1 of Ch. 72-722, Laws of Florida, provides in pertinent part that:

The public defender shall represent without additional compensation as provided in section 925.035, any person who is determined to be insolvent, as provided in this act, who is under arrest for, or is charged with, a felony. The public defender may represent any person who is determined to be insolvent, as provided in this act, who is under arrest for, or is *charged with a misdemeanor or violation of a municipal or county ordinance in the county court.* . . . (Emphasis supplied.)

Said statutory provision authorizes the public defender to represent persons charged with violating municipal ordinances *only in the county court*; it does not authorize him to represent them in the municipal court. Since the public defender has no authority to represent such persons in the municipal court, he cannot assign one of his assistants to perform that task.

I am aware that §2 of said Ch. 72-722 amended §27.54(2), F. S., to read:

(2) No county or municipality shall appropriate or contribute funds to the operation of the offices of the various public defenders, except for the purpose of defending misdemeanors and violations of municipal or county ordinances.

Said §27.54(2) is to be read *in pari materia* with the above-quoted portion of §27.51(1) and, when so read, it merely authorizes a municipality to contribute funds for the operation of the public defender's office in defending persons charged in the county court with violating municipal ordinances.

Your letter refers to Criminal Procedure Rule 3.111, headed "Providing Counsel to Indigents," and it is true that said rule refers to "violation of a municipal ordinance" and to the "public defender." However, Criminal Procedure Rule 3.010, headed "Scope," makes it clear that all of the Criminal Procedure Rules apply to criminal proceedings *in state courts* as distinguished from municipal courts.

073-112—April 11, 1973

#### JUVENILE COURTS

#### INSPECTION OF JUVENILE COURT RECORDS BY PAROLE AND PROBATION COMMISSION SUBJECT TO JUVENILE COURT JUDGE DISCRETION

To: Armond R. Cross, Chairman, Florida Parole and Probation Commission,  
Tallahassee

Prepared by: Wallace E. Allbritton, Assistant Attorney General

#### QUESTION:

May a circuit court judge handling juvenile matters refuse to permit the Florida Parole and Probation Commission to inspect juvenile court records pertaining to a prisoner being considered for parole or a person on whom the commission is conducting a presentence investigation by order of a court of record?

#### SUMMARY:

A circuit court judge handling juvenile matters may in his discretion refuse to permit the Florida Parole and Probation Commission to inspect juvenile court records when making a pre-parole investigation or presentence investigation.

I think the following statutory provisions are relevant to your inquiry. Section 39.12, F. S. (1972 Supp.), provides in pertinent part as follows:

(3) Juvenile court records of proceedings under this chapter, except records of traffic violations, shall not be open to inspection by the public. *All records, except those for traffic violations, shall be inspected only upon order of the judge, by persons deemed by the judge to have a proper interest therein,* except that a child and the parents or legal custodians of the child and their attorneys shall always have the right to inspect and copy any official record pertaining to the child. *The judge may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the judge may deem proper, and may punish*