

**AGENDA**  
**FLORIDA DEPARTMENT OF LAW ENFORCEMENT**  
**August 2, 2016**

Attachments to the items below can be viewed at the following link:  
<http://www.fdle.state.fl.us/cms/Cabinet/Cabinet-Packages.aspx>

ITEM 1            Respectfully submit the **Minutes of the March 2, 2016 Cabinet Meeting.**

(See Attachment 1)

RECOMMEND APPROVAL

ITEM 2.            Respectfully submit **Notice of Rule Adoption** for the following: **11A-7, 11B-14, 11B-18, 11B-20, 11B-21, 11B-27, 11B-30, 11B-35, 11C-6, and 11D-8.**

(See Attachment 2)

RECOMMEND APPROVAL

ITEM 3.            Respectfully submit the **Florida Department of Law Enforcement's FY 15-16 3<sup>rd</sup> Quarter Report, with Contracts, Agreements and Purchases over \$100,000 for January 1 to March 31, 2016.**

(See Attachment 3)

RECOMMEND APPROVAL

STATE OF FLORIDA

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IN RE: MEETING OF THE GOVERNOR AND  
CABINET

\_\_\_\_\_ /

CABINET MEMBERS: GOVERNOR RICK SCOTT  
ATTORNEY GENERAL PAM BONDI  
CHIEF FINANCIAL OFFICER JEFF  
ATWATER  
COMMISSIONER OF AGRICULTURE  
ADAM PUTNAM

DATE: WEDNESDAY, MARCH 2, 2016

LOCATION: CABINET MEETING ROOM  
LOWER LEVEL, THE CAPITOL  
TALLAHASSEE, FLORIDA

REPORTED BY: NANCY S. METZKE, RPR, FPR  
COURT REPORTER

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**FLORIDA DEPARTMENT OF LAW ENFORCEMENT**

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2  
3 GOVERNOR SCOTT: Next I'd like to recognize  
4 Rick Swearingen with the Florida Department of Law  
5 Enforcement.

6 Good morning.

7 COMMISSIONER SWEARINGEN: Good morning.

8 We have four agenda items for you today.  
9 First are the minutes of the January 21st, 2016,  
10 Cabinet meeting.

11 GOVERNOR SCOTT: Is there a motion on the  
12 item?

13 ATTORNEY GENERAL BONDI: So move.

14 GOVERNOR SCOTT: Is there a second?

15 CFO ATWATER: Second.

16 GOVERNOR SCOTT: Any comments or objections?

17 (NO RESPONSE).

18 GOVERNOR SCOTT: Hearing none, the motion  
19 carries.

20 COMMISSIONER SWEARINGEN: The next item is  
21 notice of 10 sets of proposed rules. While the  
22 package looks extensive, a majority of the changes  
23 are cleanup, changes to forms or statutory changes  
24 regarding the Criminal Justice Standards and  
25 Training Commission Rules 11A and 11B.

1           Also being noticed are 11C-6, regarding the  
2 Department's information services and 11D-8  
3 regarding the implied consent program.

4           GOVERNOR SCOTT: Is there a motion on the  
5 item?

6           ATTORNEY GENERAL BONDI: So move.

7           CFO ATWATER: Second.

8           GOVERNOR SCOTT: Any comments or objections?

9           (NO RESPONSE).

10          GOVERNOR SCOTT: Hearing none, the motion  
11 carries.

12          COMMISSIONER SWEARINGEN: Thank you.

13          Next is our second quarter performance report  
14 and contracts over a hundred thousand dollars. Six  
15 months into the year, performance continues to be  
16 strong. We met or exceeded six of our ten  
17 measures. The three measures marked not applicable  
18 are annual measures that will be in my yearly  
19 report this summer. And Item 9 is a customer  
20 survey that we have just about finished with that  
21 will go out to our criminal justice partners in  
22 April.

23          I'd be happy to answer any questions.

24          GOVERNOR SCOTT: Is there a motion to accept  
25 the report?

1 ATTORNEY GENERAL BONDI: So move.

2 GOVERNOR SCOTT: Is there a second?

3 CFO ATWATER: Second.

4 GOVERNOR SCOTT: Are there any comments or  
5 objections?

6 (NO RESPONSE).

7 GOVERNOR SCOTT: We're on the -- Commissioner,  
8 we're on the second quarter report.

9 COMMISSIONER PUTNAM: I thought he was a  
10 little tall for the Judge.

11 GOVERNOR SCOTT: So are there any comments or  
12 objections?

13 (NO RESPONSE).

14 GOVERNOR SCOTT: Hearing none, the motion  
15 carries.

16 COMMISSIONER SWEARINGEN: Our final item is  
17 the 2016 Florida Law Enforcement Officers' Hall of  
18 Fame nominees. The Florida Law Enforcement  
19 Officers' Hall of Fame was created to recognize and  
20 honor law enforcement officers who put their lives  
21 on the line for the safety and protection of  
22 Florida citizens and visitors through their work,  
23 service and exemplary accomplishments.

24 The inaugural class of nominees includes  
25 Willis D. Booth; Lawrence Oliver Campbell, Larry

1 Campbell; Thomas E. Hurlburt, Jr.; James F. Medley;  
2 and Leonidas George Mavro Thalassites.

3 A total of seven nominations were accepted  
4 from the Florida Sheriffs Association, the Florida  
5 Police Chiefs Association, the Police Benevolent  
6 Association, the Fraternal Order of Police, and the  
7 State Law Enforcement Chiefs Association.  
8 Representatives from each association also have  
9 served on the selection committee who conducted a  
10 public meeting on February 15th and identified the  
11 five nominees for your approval.

12 An induction ceremony will be held in  
13 conjunction with the Fallen Officers -- Fallen Law  
14 Enforcement Officers Memorial on May 1st and  
15 plaques will be displayed at the Florida Capitol on  
16 the plaza level for honorees.

17 I'm happy to answer any questions.

18 GOVERNOR SCOTT: Is there a motion on the  
19 item?

20 ATTORNEY GENERAL BONDI: So moved.

21 GOVERNOR SCOTT: Is there a second?

22 COMMISSIONER PUTNAM: Second.

23 GOVERNOR SCOTT: Any comments or objections?

24 (NO RESPONSE).

25 GOVERNOR SCOTT: Hearing none, the motion

1 carries.

2 COMMISSIONER SWEARINGEN: Thank you.

3 GOVERNOR SCOTT: Thank you, Rick.

4 CFO ATWATER: What's this, you work on the  
5 vice squad now?

6 COMMISSIONER SWEARINGEN: That won't be here  
7 long.

8 CFO ATWATER: Governor, just --

9 ATTORNEY GENERAL BONDI: Are you feeling  
10 better?

11 COMMISSIONER SWEARINGEN: I am.

12 ATTORNEY GENERAL BONDI: Good.

13 COMMISSIONER SWEARINGEN: Thank you.

14 GOVERNOR SCOTT: Yes, CFO.

15 CFO ATWATER: I just wanted to say to you and  
16 your entire team congratulations on your recent  
17 reaccreditation.

18 COMMISSIONER SWEARINGEN: Oh, thank you. I  
19 wish I could take credit for that, CFO. I  
20 appreciate your recognition.

21 CFO ATWATER: Yeah.

22 COMMISSIONER SWEARINGEN: I'm sure you hear  
23 this all time, but I truly work for the best state  
24 agency with the best state employees in Florida,  
25 and they make my job very easy.



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CFO ATWATER: Well, congratulations. Well  
said.

COMMISSIONER SWEARINGEN: Thank you.

\* \* \* \*

ANDY GARDINER  
President



Senator Denise Grimsley, Chair  
Representative W. Travis Cummings, Vice Chair  
Senator Aaron Bean  
Senator Dwight Bullard  
Senator Nancy C. Detert  
Senator Geraldine F. "Geri" Thompson  
Representative Matt Hudson  
Representative Lake Ray  
Representative Hazelle P. "Hazel" Rogers  
Representative Barbara Watson

STEVE CRISAFULLI  
Speaker



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THE FLORIDA LEGISLATURE  
JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE

June 16, 2016

Ms. Joyce Gainous Harris  
Government Operations Consultant  
Florida Department of Law Enforcement  
2331 Phillips Road  
Tallahassee, Florida 32308

**RE: Department of Law Enforcement  
Rule 11A-7.002**

Dear Ms. Gainous-Harris:

After reviewing the above-referenced rule, I offer the following comments for your consideration and written response:

**Notice:** The citations to the rulemaking authority lists section 120.53(1), F.S. This statute should be removed as it does not contain rulemaking authority. Please publish a notice of correction to address this issue.

It appears that section 286.0114, F.S., should be added to the law implemented section. Please include this in your notice of correction.

**11A-7.002(2)** The sentence should be amended to read, "...responding to questions posed by Commission members, staff or counsel."

**11A-7.002(3)** Section 286.0114, F.S., provides strict limitations regarding the rules or policies of a commission which govern the opportunity to be heard. What statutory authority provides the Criminal Justice Standards and Training Commission with the power to allow individuals or groups to speak using a pseudonym?

RECEIVED

JUN 20 2016

Criminal Justice  
Professionalism Program

Ms. Joyce Gainous Harris  
June 16, 2016  
Page 2

Should you have any questions, please do not hesitate to contact me. Otherwise, I look forward to your written response.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Sharon Jones', with a large, stylized initial 'S' and a long, sweeping flourish extending to the right.

Sharon Jones  
Senior Attorney

SJ:TL WORD/JONES/11A\_7.002LS061616\_161159



Florida Department of  
Law Enforcement

Richard L. Swearingen  
*Commissioner*

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Rick Scott, *Governor*  
Pam Bondi, *Attorney General*  
Jeff Atwater, *Chief Financial Officer*  
Adam Putnam, *Commissioner of Agriculture*

July 14, 2016

Sharon Jones, Senior Attorney  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, FL 32399-1400

RE: Department of Law Enforcement  
Criminal Justice Standards and Training Commission  
Rule 11A-7.002

Dear Ms. Jones:

In reviewing documentation for Rule 11A-7.002, I discovered that I sent out an incorrect version of FDLE's response to your comments. Please use this letter as the response to your letter dated June 16, 2016, regarding the JAPC -review and findings of the proposed rule revisions to Rule Chapter 11A-7.002, F.A.C., FDLE provides the following:

**JAPC Comment:**

**Notice:** The citations to the rulemaking authority lists section 120.53(1), F.S. This statute should be removed as it does not contain rulemaking authority. Please publish a notice of correction to address this issue.

It appears that section 286.0114, F.S., should be added to the law implemented section. Please include this in your notice of correction.

**FDLE Response:** FDLE acknowledges that section 120.53(1) does not provide rulemaking authority. The rulemaking authority section should include section 943.03(4).

Section 286.0114 should be added to the Law Implemented section.

FDLE will make the revisions in a technical memo to the Bureau of Administrative Code upon filing the rules for adoption. If that is not satisfactory to you, then FDLE will revise the statutes in the next rule promulgation package, which should begin in October or November of 2016.

**11A-7.002(2):** The sentence should be amended to read, " ... responding to questions posed by Commission members, staff or counsel."

**FDLE Response:** FDLE will revise the statutes in the next rule promulgation package, which should begin in October or November of 2016.

**11A-7.002(3):** Section 286.0114, F.S., provides strict limitations regarding the rules or policies of a commission which govern the opportunity to be heard. What statutory authority provides the Criminal Justice Standards and Training Commission with the power to allow individuals or groups to speak using a pseudonym?

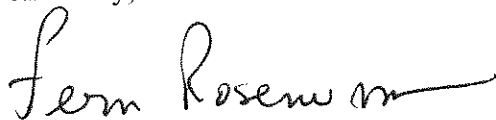
**FDLE Response:** In this circumstance, there is no authority to require a person to identify themselves when providing comment to the Commission. Section 286.0114(4) reads as follows:

- (4) Rules or policies of a board or commission which govern the opportunity to be heard are limited to those that:
  - (a) Provide guidelines regarding the amount of time an individual has to address the board or commission;
  - (b) Prescribe procedures for allowing representatives of groups or factions on a proposition to address the board or commission, rather than all members of such groups or factions, at meetings in which a large number of individuals wish to be heard;
  - (c) Prescribe procedures or forms for an individual to use in order to inform the board or commission of a desire to be heard; to indicate his or her support, opposition, or neutrality on a proposition; and to indicate his or her designation of a representative to speak for him or her or his or her group on a proposition if he or she so chooses; or
  - (d) Designate a specified period of time for public comment.

Nothing in the language set forth above requires speaker identification. The Commission believes that requiring identification is not required by the law and could create a chilling effect on participation. See AGO 2005-13, [AG Hyperlink](#). Therefore, as part of the procedures to inform the Commission that a person or group wants to be heard the Commission believes it is appropriate to provide for the use of pseudonyms.

If you have any additional questions or concerns, please do not hesitate to contact me.

Sincerely,



Fern Rosenwasser  
Assistant General Counsel

STATE OF FLORIDA  
DEPARTMENT OF LAW ENFORCEMENT  
CHAPTER 11A-7 FLORIDA ADMINISTRATIVE CODE  
CREATING RULE 11A-7.002  
GENERAL PROGRAM PROVISIONS  
SUMMARY OF THE RULE

Creates 11A-7.002, Commission Procedures for Public Comment.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

11A-7.002: Creates rule language to ensure the Commission complies with section 286.0114, F.S., related to public participation at meetings. The Bureau of Administrative Codes advised staff that the entire Rule Chapter 11A-6, consisting of Rule 11A-6.008, Meetings, was repealed in 1999. As a result, staff had to create the newly established Rule Chapter 11A-7: **CRIMINAL JUSTICE STANDARDS AND TRAINING PROCEDURES**, Rule 11A-7.002, Commission Procedures for Public Comment.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND  
LEGISLATIVE RATIFICATION

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed rule is not expected to

exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment.

FEDERAL COMPARISON STATEMENT

There are no federal requirements dealing with this topic.

SUMMARY OF HEARING

FDLE received no requests for a public hearing and no written comments were submitted.

## Notice of Proposed Rule

### **DEPARTMENT OF LAW ENFORCEMENT**

#### **Division of Criminal Justice Standards and Training**

**RULE NO.: RULE TITLE:**

11A-7.002: Commission Procedures for Public Comment

**PURPOSE AND EFFECT:** Rule 11A-7.002, F.A.C.: Adds rule language to ensure the Commission complies with section 286.0114, F.S., related to public participation at meetings.

**SUMMARY:** Meeting procedures for public comment.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:** The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department's economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**RULEMAKING AUTHORITY:** 120.53(1), 286.0114 FS.

**LAW IMPLEMENTED:** 943.11(2) FS.

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):**

**DATE AND TIME:** Wednesday, June 29, 2016, 10:00 a.m.

**PLACE:** Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Joyce Gainous-Harris at (850)410-8615, or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Joyce Gainous-Harris at (850)410-8615 or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Bureau Chief Glen Hopkins

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** Governor and Cabinet

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** August 2, 2016

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR:** October 30, 2015



THE FULL TEXT OF THE PROPOSED RULE IS:

RULE 11A-7: CRIMINAL JUSTICE STANDARDS AND TRAINING PROCEDURES

11A-7.002 Commission Procedures for Public Comment. The Criminal Justice Standards and Training Commission invites and encourages all members of the public to provide comment on matters or propositions before the Commission or a committee of the Commission. The opportunity to provide comment shall be subject to the following:

(1) Members of the public will be given an opportunity to provide comment on subject matters before the Commission after an agenda item is introduced at a properly noticed Commission meeting.

(2) Members of the public shall be limited to five minutes to provide comment. This time shall not include time spent by the presenter responding to questions posed by Commission members, staff or Commission counsel. The chair of the Commission may extend the time to provide comment if time permits.

(3) Members of the public shall notify Commission staff in writing of his or her interest to be heard on a proposition or matter before the Commission. The notification shall identify the person or entity, indicate support, opposition, or neutrality, and identify who will speak on behalf of a group or faction of persons consisting of two or more persons. Any person or entity appearing before the Commission may use a pseudonym if he or she does not wish to be identified. The notification shall be submitted to Commission staff in writing to the Florida Department of Law Enforcement, Criminal Justice Professionalism Program, Post Office Box 1489, Tallahassee, Florida 32302.

Rulemaking Authority 120.53(1), 286.0114 FS. Law Implemented 943.11(2) FS. History--New\_\_\_\_\_

ANDY GARDINER  
President



Senator Denise Grimsley, Chair  
Representative W. Travis Cummings, Vice Chair  
Senator Aaron Bean  
Senator Dwight Bullard  
Senator Nancy C. Detert  
Senator Geraldine F. "Geri" Thompson  
Representative Matt Hudson  
Representative Lake Ray  
Representative Hazelle P. "Hazel" Rogers  
Representative Barbara Watson

STEVE CRISAFULLI  
Speaker



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THE FLORIDA LEGISLATURE  
JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE

June 16, 2016

Ms. Joyce Gainous Harris  
Government Operations Consultant  
Florida Department of Law Enforcement  
2331 Phillips Road  
Tallahassee, Florida 32308

**RE: Department of Law Enforcement  
Rule 11B-14.002**

Dear Ms. Gainous-Harris:

After reviewing the above-referenced rule, I offer the following comments for your consideration and written response:

**Notice:** The citations to the law implemented list section 119.071, F.S. This statute should be removed as the rule does not implement section 119.071, F.S. Please publish a notice of correction to address this issue.

**11B-14.002(2)** The language in the proposed rule text identifying the courses does not match the course titles in the referenced rule 11B-14.001(1), F.A.C. The two titles should read, "Career Development Training Course" and "Advanced Training Course." Please revise.

Please see the comment for the "Notice."

Should you have any questions, please do not hesitate to contact me. Otherwise, I look forward to your written response.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sharon Jones".

Sharon Jones  
Senior Attorney

RECEIVED  
JUN 20 2016  
Criminal Justice  
Professionalism Program



Florida Department of  
Law Enforcement

Richard L. Swearingen  
*Commissioner*

**Office of General Counsel**  
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Tallahassee, Florida 32302-1489  
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Rick Scott, *Governor*  
Pam Bondi, *Attorney General*  
Jeff Atwater, *Chief Financial Officer*  
Adam Putnam, *Commissioner of Agriculture*

July 5, 2016

Sharon Jones, Senior Attorney  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, FL 32399-1400

RE: Department of Law Enforcement  
Criminal Justice Standards and Training Commission  
Rule 11B-14.002

Dear Ms. Jones:

I am writing in response to your letter dated June 16, 2016, regarding the JAPC -review and findings of the proposed rule revisions to Rule Chapter 11B-14.002, F.A.C., FDLE provides the following:

**JAPC Comment:**

**Notice:** The citations to the law implemented list section 119.071, F.S. This statute should be removed as the rule does not implement section 119.071, F.S. Please publish a notice of correction to address this issue.

**FDLE Response:** In May of 2015, a JAPC attorney required that FDLE include section 119.071 as Law Implemented in certain rules that pertain to social security numbers or the use of the last 4 numbers of a social number.

FDLE will make the revision in a technical memo to the Bureau of Administrative Code upon filing the rules for adoption. If that is not satisfactory to you, then FDLE will revise the statutes in the next rule promulgation package, which should begin in October or November of 2016.

**11B-14.002(2):** The language in the proposed rule text identifying the courses does not match the course titles in the referenced rule 11B-14.001(1), F.A.C. The two titles should read, "Career Development Training Course" and "Advanced Training Course." Please revise. Please see the comment for the "Notice."  
The sentence should be amended to read, "... responding to questions posed by Commission members, staff or counsel."

**FDLE Response:** We concur. The language in our proposed rule text identifying the courses does not match the course titles in the referenced Rule 11B-14.001(1), F.A.C. The two titles should read, "Career Development Training Course" and "Advanced Training Course" instead of "Career Development Training Courses" and "Advanced Training Courses".

FDLE will make the revisions in a technical memo to the Bureau of Administrative Code upon filing the rules for adoption. If that is not satisfactory to you, then FDLE will revise the statutes in the next rule promulgation package, which should begin in October or November of 2016.

If you have any additional questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Fern Rosenwasser". The signature is written in black ink and includes a horizontal line extending to the right from the end of the name.

Fern Rosenwasser  
Assistant General Counsel

STATE OF FLORIDA  
DEPARTMENT OF LAW ENFORCEMENT  
CHAPTER 11B-14 FLORIDA ADMINISTRATIVE CODE  
AMENDING RULE 11B-14.002  
GENERAL PROGRAM PROVISIONS  
SUMMARY OF THE RULE

Revises the Training Report, form CJSTC-67.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

11B-14.002(2): Revises the Training Report, form CJSTC-67, to specify that only the applicant's last four digits are required for completion of the form.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND  
LEGISLATIVE RATIFICATION

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment.

FEDERAL COMPARISON STATEMENT

There are no federal requirements dealing with this topic.

SUMMARY OF HEARING

FDLE received no requests for a public hearing and no written comments were submitted.

## Notice of Proposed Rule

### **DEPARTMENT OF LAW ENFORCEMENT**

#### **Criminal Justice Standards and Training Commission**

RULE NO.: RULE TITLE:

11B-14.002 General Program Provisions

PURPOSE AND EFFECT: Subsection 11B-14.002(2), F.A.C.: Revises the Training Report, form CJSTC-67, to specify that only the applicant's last four digits are required for completion of the form.

SUMMARY: Revised Training Report, form CJSTC-67.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department's economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 943.03(4), 943.12(1), 943.22(2)(h) FS.

LAW IMPLEMENTED: 119.071, 943.22 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Wednesday, June 29, 2016 at 10:00 a.m.

PLACE: Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Joyce Gainous-Harris at (850)410-8615, or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308.

If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joyce Gainous-Harris at (850)410-8615, or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308

NAME OF PERSON ORIGINATING PROPOSED RULE: Bureau Chief Glen Hopkins

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 2, 2016

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 30, 2015

THE FULL TEXT OF THE PROPOSED RULE IS:

11B-14.002 General Program Provisions.

(1) No change.

(2) Career Development Training Program Courses, as defined in subsection 11B-14.001(1), F.A.C., and Advanced Training Program Courses, as defined in subsection 11B-14.001(3), F.A.C., that have been successfully completed, as defined in subsection 11B-14.001(9), F.A.C., by eligible officers, shall be verified by the training center director or designee, as defined in paragraph 11B-21.005(8)(a), F.A.C. To verify successful completion of a Commission-approved Advanced or Career Development Training Program Course and to authorize salary incentive payments, a Training Report, form CJSTC-67, revised November 5, 2015 ~~November 6, 2014~~, effective 9/2016 ~~7/2015~~, hereby incorporated by reference, shall be electronically transmitted to Commission staff through the Commission's ATMS. Form CJSTC-67 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

(3) through (15) No change.

Rulemaking Authority 943.03(4), 943.12(1), 943.22(2)(h) FS. Law Implemented 119.071, 943.22 FS. History— New 10-16-78, Amended 9-11-79, 1-13-81, 5-16-83, 1-7-85, Formerly 11B-14.02, Amended 7-13-87, 9-3-87, 5-23-88, 5-14-92, 12-13-92, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 3-13-13, 7-29-15, \_\_\_\_\_.





Senator Denise Grimsley, Chair  
Representative W. Travis Cummings, Vice Chair  
Senator Aaron Bean  
Senator Dwight Bullard  
Senator Nancy C. Detert  
Senator Geraldine F. "Geri" Thompson  
Representative Matt Hudson  
Representative Lake Ray  
Representative Hazelle P. "Hazel" Rogers  
Representative Barbara Watson



KENNETH J. PLANTE  
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www.japc.state.fl.us  
joint.admin.procedures@leg.state.fl.us

THE FLORIDA LEGISLATURE  
JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE

June 17, 2016

RECEIVED

JUN 21 2016

Criminal Justice  
Professionalism Program

Ms. Joyce Gainous Harris  
Government Operations Consultant  
Florida Department of Law Enforcement  
2331 Phillips Road  
Tallahassee, Florida 32308

**RE: Department of Law Enforcement  
Rules 11B-18.003, .004 and .0053**

Dear Ms. Gainous-Harris:

After reviewing the above-referenced rules, I offer the following comments for your consideration and written response:

- 11B-18.003** The "Operational Definitions" section states that the definition for the term "Commission Staff" may be found in section 943.10, F.S. Please remove this term from the definition as it is not found in the cited statutory reference.
- 11B-18.003(4)** The coding is incorrect. The correct citation is to section 943.25(4), F.S., which is correctly cited in the current rule. Please revise.
- 11B-18.003(7)** The coding is incorrect. The correct citation is to section 943.25(4)(b), F.S., which is correctly cited in the current rule. Please revise.
- 11B-18.003(10)** Please see the comment for rule 11B-18.003(4).
- 11B-18.003(15)** The coding is incorrect. The correct citation is to section 943.25(5)(a), F.S., which is correctly cited in the current rule. Please revise.
- 11B-18.004(4)** This subsection incorrectly omits Levy County as belonging the Eighth Judicial Circuit. Please revise.

- 11B-18.004(5)** Putnam County and St. Johns County should be removed from this subsection as they belong to the Seventh Judicial Circuit. Please revise.
- 11B-18.004(6)** Levy County should be removed from the subsection as it belongs to the Eighth Judicial Circuit. Please revise.
- Lake County should be added to the subsection as it belongs to the Fifth Judicial Circuit. Please revise.
- 11B-18.004(7)** Lake County should be removed from this subsection as it does not belong to the Seventh, Ninth, or Eighteenth Judicial Circuits. Please revise.
- Putnam County and St. Johns County should be added to the subsection as they belong to the Seventh Judicial Circuit. Please revise.
- 11B-18.004(8)** DeSoto County should be removed from the subsection as it belongs to the Twelfth Judicial Circuit. Please revise.
- 11B-18.004(9)** Manatee County should be removed from the subsection as it belongs to the Twelfth Judicial Circuit. Please revise.
- 11B-18.004(10)** DeSoto County and Manatee County should be added to the subsection as they belong to the Twelfth Judicial Circuit. Please revise.
- 11B-18.0053(4)(e)** The paragraph states that Form CJSTC-311 can be obtained at the URL: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Programs-Forms.aspx>. However, when the URL is entered, it results in the message "Service Unavailable HTTP Error 503." Please revise the proposed rule text to provide a working hyperlink.

Should you have any questions, please do not hesitate to contact me. Otherwise, I look forward to your written response.

Sincerely,



Sharon Jones  
Senior Attorney



Florida Department of  
Law Enforcement

Richard L. Swearingen  
*Commissioner*

**Office of General Counsel**  
Post Office Box 1489  
Tallahassee, Florida 32302-1489  
(850) 410-7676  
www.fdle.state.fl.us

Rick Scott, *Governor*  
Pam Bondi, *Attorney General*  
Jeff Atwater, *Chief Financial Officer*  
Adam Putnam, *Commissioner of Agriculture*

July 5, 2016

Sharon Jones, Senior Attorney  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, FL 32399-1400

RE: Department of Law Enforcement  
Criminal Justice Standards and Training Commission  
Rule 11B-18.003, .004 and .0053

Dear Ms. Jones:

I am writing in response to your letter dated June 17, 2016, regarding the JAPC -review and findings of the proposed rule revisions to Rule Chapter 11B-18, F.A.C., FDLE provides the following:

**JAPC Comment:**

**11B-18.003:** The "Operational Definitions" section states that the definition for the term "Commission Staff" may be found in section 943.10, F.S. Please remove this term from the definition as it is not found in the cited statutory reference.

**FDLE Response:** FDLE will amend this language in the next rule promulgation package, which should begin in October or November of 2016.

**11B-18.003(4) and (10):** The coding is incorrect. The correct citation is to section 943.25(4), F.S., which is correctly cited in the current rule. Please revise.

**FDLE Response –** Since the current rule is accurate, FDLE is requesting the proposed rule change be considered a technical revision after promulgation of the proposed rules. If that is not satisfactory to you, then FDLE will revise the statutes in the next rule promulgation package, which should begin in October or November of 2016.

**11B-18.003(7):** The coding is incorrect. The correct citation is to section 943.25(4)(b), F.S., which is correctly cited in the current rule. Please revise.

**FDLE Response:** Since the current rule is accurate, FDLE is requesting the proposed rule change be considered a technical revision after promulgation of the proposed rules. If that is not satisfactory to you, then FDLE will revise the statutes in the next rule promulgation package, which should begin in October or November of 2016.

**11B-18.003(15):** The coding is incorrect. The correct citation is to section 943.25(4)(b), F.S., which is correctly cited in the current rule. Please revise.

**FDLE Response:** Since the current rule is accurate, FDLE is requesting the proposed rule change be considered a technical revision after promulgation of the proposed rules. If that is not satisfactory to you, then FDLE will revise the statutes in the next rule promulgation package, which should begin in October or November of 2016.

**11B-18.004(4):** This subsection incorrectly omits Levy County as belonging the Eighth Judicial Circuit. Please revise.

**FDLE Response:** The sixteen regional training areas do not mirror the twenty judicial circuits. These regional training areas were designed based on the geographical locations of the training schools and the officer population that they serve, pursuant to 943.12 pertaining to the Commission's powers and duties.

**11B-18.004(5)** Putnam County and St. Johns County should be removed from this subsection as they belong to the Seventh Judicial Circuit. Please revise.

**FDLE Response:** The sixteen regional training areas do not mirror the twenty judicial circuits. These regional training areas were designed based on the geographical locations of the training schools and the officer population that they serve, pursuant to 943.12 pertaining to the Commission's powers and duties.

**11B-18.004(6)** Levy County should be removed from the subsection as it belongs to the Eighth Judicial Circuit. Please revise.

Lake County should be added to the subsection as it belongs to the Fifth Judicial Circuit. Please revise.

**FDLE Response:** The sixteen regional training areas do not mirror the twenty judicial circuits. These regional training areas were designed based on the geographical locations of the training schools and the officer population that they serve, pursuant to 943.12 pertaining to the Commission's powers and duties.

**11B-18.004(7)** Lake County should be removed from this subsection as it does not belong to the Seventh, Ninth, or Eighteenth Judicial Circuits. Please revise.

Putnam County and St. Johns County should be added to the subsection as they belong to the Seventh Judicial Circuit. Please revise.

**FDLE Response:** The sixteen regional training areas do not mirror the twenty judicial circuits. These regional training areas were designed based on the geographical locations of the training schools and the officer population that they serve, pursuant to 943.12 pertaining to the Commission's powers and duties.

**11B-18.004(8)** DeSoto County should be removed from the subsection as it belongs to the Twelfth Judicial Circuit. Please revise.

**FDLE Response:** The sixteen regional training areas do not mirror the twenty judicial circuits. These regional training areas were designed based on the geographical locations of the training schools and the officer population that they serve, pursuant to 943.12 pertaining to the Commission's powers and duties.

**11B-18.004(9)** Manatee County should be removed from the subsection as it belongs to the Twelfth Judicial Circuit. Please revise.

**FDLE Response:** The sixteen regional training areas do not mirror the twenty judicial circuits. These regional training areas were designed based on the geographical locations of the training schools and the officer population that they serve, pursuant to 943.12 pertaining to the Commission's powers and duties.

**11B-18.004(10)** DeSoto County and Manatee County should be added to the subsection as they belong to the Twelfth Judicial Circuit. Please revise.

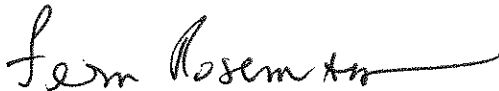
**FDLE Response:** The sixteen regional training areas do not mirror the twenty judicial circuits. These regional training areas were designed based on the geographical locations of the training schools and the officer population that they serve, pursuant to 943.12 pertaining to the Commission's powers and duties.

**11B-18.0053(4)(e):** The paragraph states that Form CJSTC-311 can be obtained at the URL: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Programs-Forms.aspx> . However, when the URL is entered, it results in the message "Service Unavailable HTTP Error 503." Please revise the proposed rule text to provide a working hyperlink.

**FDLE Response:** As a result of a recent FDLE computer system upgrade, the hyperlink is no longer active. FDLE is in the process of providing a working hyperlink on its website to access Form CJSTC-311. FDLE requests that the proposed rule change be considered a technical revision after promulgation of the proposed rules. If that is not satisfactory to you, then FDLE will revise the link in the next rule promulgation package, which should begin in October or November of 2016.

If you have any additional questions or concerns, please do not hesitate to contact me.

Sincerely,



Fern Rosenwasser  
Assistant General Counsel

STATE OF FLORIDA

DEPARTMENT OF LAW ENFORCEMENT

CHAPTER 11B-18 FLORIDA ADMINISTRATIVE CODE

AMENDING RULE 11B-18.003, RULE 11B-18.004, AND RULE 11B-18.0053

SUMMARY OF THE RULE

Revises the regional training areas and revises the Operating Capital Outlay Property Disposal Request, form CJSTC-311.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

11B-18.003(4), (7), (10), (15): Updates the statutory reference.

11B-18.004: Revised to include a description of the training areas and provides an internet address to assist customers with locating the names of the Commission-certified training schools and where they can be found.

11B-18.004(1)-(16): Removes the specific training school names in the respective regional training areas to eliminate the need to revise the rule each time a Commission-certified training school changes its name.

11B-18.0053(3)(d): Updates the statutory reference.

11B-18.0053(4)(e): Revises the Operating Capital Outlay Property Disposal Request, form CJSTC-311, to specify that the Trust Fund Administrator must sign the form to authorize the transfer or disposal of trust fund operating capital outlay property. Upon completing the form the training center director must forward the form to the CJP Field Services Section of the FDLE/Criminal Justice Professionalism Program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

LEGISLATIVE RATIFICATION

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment.

#### FEDERAL COMPARISON STATEMENT

There are no federal requirements dealing with this topic.

#### SUMMARY OF HEARING

FDLE received no requests for a public hearing and no written comments were submitted.

## Notice of Proposed Rule

### **DEPARTMENT OF LAW ENFORCEMENT**

#### **Criminal Justice Standards and Training Commission**

##### **RULE NOS.:RULE TITLES:**

11B-18.003 Operational Definitions

11B-18.004 Regional Training Areas

11B-18.0053 Officer Training Monies Budget and Expenditure Categories

**PURPOSE AND EFFECT:** Subsections 11B-18.003(4), (7), (10), (15), F.A.C.: Updates the statutory reference.

Rule 11B-18.004, F.A.C.: Revised to include a description of the training areas and provides an internet address to assist customers with locating the names of the Commission-certified training schools and where they can be found.

Subsections 11B-18.004(1)-(16) , F.A.C.: Removes the specific training school names in the respective regional training areas to eliminate the need to revise the rule each time a Commission-certified training school changes its name.

Paragraph 11B-18.0053(3)(d) , F.A.C.: Updates the statutory reference.

Paragraph 11B-18.0053(4)(e) , F.A.C.: Revises the Operating Capital Outlay Property Disposal Request, form CJSTC-311, to specify that the Trust Fund Administrator must sign the form to authorize the transfer or disposal of trust fund operating capital outlay property. Upon completing the form the training center director must forward the form to the CJP Field Services Section of the FDLE/Criminal Justice Professionalism Program.

**SUMMARY:** Regional training areas and revised Operating Capital Outlay Property Disposal Request, form CJSTC-311.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:** The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department's economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**RULEMAKING AUTHORITY:** 943.03(4), 943.12(1), (2) FS.

**LAW IMPLEMENTED:** 943.12(5), 943.25(2), (3), (4), (5) FS.

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):**

**DATE AND TIME:** Wednesday, June 29, 2016, 10:00 a.m.

**PLACE:** Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Joyce Gainous-Harris at (850)410-8615, or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308.. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Joyce Gainous-Harris at (850)410-8615, or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Bureau Chief Glen Hopkins

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** Governor and Cabinet

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** August 2, 2016



DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 30, 2015

THE FULL TEXT OF THE PROPOSED RULE IS:

11B-18.003 Operational Definitions. For the purpose of this rule chapter, the definitions of “Auxiliary Law Enforcement Officer,” “Auxiliary Correctional Officer,” “Auxiliary Correctional Probation Officer,” “Commission,” “Correctional Officer,” “Correctional Probation Officer,” “Criminal Justice Training School,” “Commission staff,” “Program,” “Employing Agency,” “Law Enforcement Officer,” “Officer,” “Part-time Law Enforcement Officer,” “Part-time Correctional Officer,” “Part-time Correctional Probation Officer,” “Private Criminal Justice Training School,” “Public Criminal Justice Training School,” “Support Personnel,” and “Training Center Director,” pursuant to Section 943.10, F.S., shall apply. The operational definitions are as follows:

(1) through (3) No change.

(4) “Regional Training Council” means a Local Regional Training Council or a State Regional Training Council established in this rule chapter pursuant to Section 943.25(4)(5), F.S.

(5) through (6) No change.

(7) “Distribution Formula” means the Commission-approved distribution formula established in this rule chapter used to calculate the distribution of Officer Training Monies to the training regions pursuant to Section 943.25(4)(5)(b), F.S.

(8) through (9) No change.

(10) “Local Regional Training Council” means a Regional Training Council established pursuant to Section 943.25(4)(5), F.S., and is composed of representatives of Commission-certified training schools, and local law enforcement and local correctional agencies within a region.

(11) through (14) No change.

(15) “Reciprocal Payment” means reimbursement to a region for the expense of training a trainee from another region pursuant to Section 943.25(5)(6)(a), F.S.

(16) through (25) No change.

Rulemaking Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.12(5), 943.25(3) FS. (Supp. 1998). History—New 1-13-81, Amended 7-28-82, 1-26-83, 1-7-85, 1-28-86, Formerly 11B-18.03, Amended 7-13-87, 5-23-88, 12-13-92, 1-2-97, 7-7-99, 8-22-00, 11-5-02, 11-30-04, 3-13-13, \_\_\_.

11B-18.004 Regional Training Areas. For the purposes of Officer Training Monies activities, sixteen regional training areas comprised of the criminal justice agencies and Commission-certified training schools located within each regional training area are established. The names of the Commission-certified training schools can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Menu/Training-Resources-Home-Page/Training-Centers.aspx> or by contacting Commission staff at (850) 410-8615. ~~there are established the~~The following sixteen regional training areas are established:

(1) Region I. Criminal justice agencies and Commission-certified training schools within Escambia, Santa Rosa, Okaloosa, and Walton counties, and the State Attorney’s Office for the First Judicial Circuit.

~~(a) Criminal justice agencies within Escambia, Santa Rosa, Okaloosa, and Walton counties, and the State Attorney’s Office for the First Judicial Circuit.~~

~~(b) Commission-certified training schools within Region I: George Stone Vo Tech Criminal Justice Training Center and Northwest Florida State College Criminal Justice Training Center.~~

(2) Region II. Criminal justice agencies and Commission-certified training schools within Holmes, Washington, Bay, Jackson, Calhoun, and Gulf counties, and the State Attorney’s Office for the Fourteenth Judicial Circuit.

~~(a) Criminal justice agencies within Holmes, Washington, Bay, Jackson, Calhoun, and Gulf counties, and the State Attorney’s Office for the Fourteenth Judicial Circuit.~~

~~(b) Commission-certified training schools within Region II: Chipola College Center for Public Service, Gulf Coast State College Criminal Justice Training Academy, and Florida Panhandle Technical College Public Safety Institute.~~

(3) Region III. Criminal justice agencies and Commission-certified training schools within Gadsden, Liberty, Franklin, Leon, Wakulla, and Jefferson counties, and the State Attorney’s Office for the Second Judicial Circuit.

~~(a) Criminal justice agencies within Gadsden, Liberty, Franklin, Leon, Wakulla, and Jefferson counties, and the State Attorney’s Office for the Second Judicial Circuit.~~

~~(b) Commission-certified training school within Region III: Florida Public Safety Institute, Pat Thomas Law Enforcement Academy.~~

(4) Region IV. Criminal justice agencies and Commission-certified training schools within Madison, Taylor, Hamilton, Suwannee, Lafayette, Dixie, Columbia, Gilchrist, Baker, Union, Bradford, and Alachua counties, and the State Attorney's Office for the Third and Eighth Judicial Circuits.

~~(a) Criminal justice agencies within Madison, Taylor, Hamilton, Suwannee, Lafayette, Dixie, Columbia, Gilchrist, Baker, Union, Bradford, and Alachua counties, and the State Attorney's Office for the Third and Eighth Judicial Circuits.~~

~~(b) Commission-certified training schools within Region IV: Florida Gateway College Public Service Training Center, North Florida Community College Public Safety Academy, and Santa Fe College Institute of Public Safety.~~

(5) Region V. Criminal justice agencies and Commission-certified training schools within Nassau, Duval, Clay, Putnam, and St. Johns counties, and the State Attorney's Office for the Fourth Judicial Circuit.

~~(a) Criminal justice agencies within Nassau, Duval, Clay, Putnam, and St. Johns counties, and the State Attorney's Office for the Fourth Judicial Circuit.~~

~~(b) Commission-certified training schools within Region V: Northeast Florida Criminal Justice Training and Education Center, and St. Johns State Community College Criminal Justice Training Program.~~

(6) Region VI. Criminal justice agencies and Commission-certified training schools within Levy, Citrus, Hernando, Marion, and Sumter counties, and the State Attorney's Office for the Fifth Judicial Circuit.

~~(a) Criminal justice agencies within Levy, Citrus, Hernando, Marion, and Sumter counties, and the State Attorney's Office for the Fifth Judicial Circuit.~~

~~(b) Commission-certified training schools within Region VI: College of Central Florida Criminal Justice Institute and Citrus County Public Safety Center.~~

(7) Region VII. Criminal justice agencies and Commission-certified training schools within Lake, Volusia, Seminole, Orange, Osceola, Brevard, and Flagler counties, and the State Attorney's Office for the Seventh, Ninth, and Eighteenth Judicial Circuits.

~~(a) Criminal justice agencies within Lake, Volusia, Seminole, Orange, Osceola, Brevard, and Flagler counties, and the State Attorney's Office for the Seventh, Ninth, and Eighteenth Judicial Circuits.~~

~~(b) Commission-certified training schools within Region VII: Eastern Florida State College Public Safety Institute, Criminal Justice Institute at Valencia College, Daytona State College School of Emergency Services Institute, Criminal Justice Academy of Osceola, Lake Technical College Criminal Justice Academy, and Seminole State College Criminal Justice Institute.~~

(8) Region VIII. Criminal justice agencies and Commission-certified training schools within Polk, Hardee, DeSoto, and Highlands counties, and the State Attorney's Office for the Tenth Judicial Circuit.

~~(a) Criminal justice agencies within Polk, Hardee, DeSoto, and Highlands counties, and the State Attorney's Office for the Tenth Judicial Circuit.~~

~~(b) Commission-certified training schools within Region VIII: Polk State College Kenneth C. Thompson Institute of Public Safety and South Florida State College Criminal Justice Academy.~~

(9) Region IX. Criminal justice agencies and Commission-certified training schools within Pasco, Pinellas, Hillsborough, and Manatee counties, and the State Attorney's Office for the Sixth and Thirteenth Judicial Circuits.

~~(a) Criminal justice agencies within Pasco, Pinellas, Hillsborough, and Manatee counties, and the State Attorney's Office for the Sixth and Thirteenth Judicial Circuits.~~

~~(b) Commission-certified training schools within Region IX: Hillsborough Community College Criminal Justice Institute, Manatee Technical College, Manatee County Sheriff's Office Training Center, Pasco Hernando State College, and St. Petersburg College Southeastern Public Safety Institute.~~

(10) Region X. Criminal justice agencies and Commission-certified training schools within Charlotte, Lee, Sarasota, Collier, Glades, and Hendry counties, and the State Attorney's Office for the Twelfth and Twentieth Judicial Circuits.

~~(a) Criminal justice agencies within Charlotte, Lee, Sarasota, Collier, Glades, and Hendry counties, and the State Attorney's Office for the Twelfth and Twentieth Judicial Circuits.~~

~~(b) Commission-certified training schools within Region X: Sarasota County Technical Institute Criminal Justice Academy and Southwest Florida Public Service Academy.~~

(11) Region XI. Criminal justice agencies and Commission-certified training schools within Indian River, Okeechobee, St. Lucie and Martin counties, and the State Attorney's Office for the Nineteenth Judicial Circuit.

~~(a) Criminal justice agencies within Indian River, Okeechobee, St. Lucie and Martin counties, and the State Attorney's Office for the Nineteenth Judicial Circuit.~~

~~(b) Commission certified training school within Region XI: Indian River State College Criminal Justice Institute.~~

(12) Region XII. Criminal justice agencies and Commission-certified training schools within Palm Beach County and the State Attorney's Office for the Fifteenth Judicial Circuit.

~~(a) Criminal justice agencies within Palm Beach County and the State Attorney's Office for the Fifteenth Judicial Circuit.~~

~~(b) Commission certified training school within Region XII: Palm Beach State College Criminal Justice Institute.~~

(13) Region XIII. Criminal justice agencies and Commission-certified training schools within Broward County and the State Attorney's Office for the Seventeenth Judicial Circuit.

~~(a) Criminal justice agencies within Broward County and the State Attorney's Office for the Seventeenth Judicial Circuit.~~

~~(b) Commission certified training school within Region XIII: Broward College Institute of Public Safety and Broward County Sheriff's Office Institute for Criminal Justice Studies.~~

(14) Region XIV. Criminal justice agencies and Commission-certified training schools within Monroe and Miami-Dade counties and the State Attorney's Office for the Eleventh and Sixteenth Judicial Circuits.

~~(a) Criminal justice agencies within Monroe and Miami-Dade counties and the State Attorney's Office for the Eleventh and Sixteenth Judicial Circuits.~~

~~(b) Commission certified training schools within Region XIV: Florida Keys Community College Institute of Criminal Justice, Miami Police Training Center, Miami Dade Public Safety and Training Institute, and Miami Dade College School of Justice.~~

(15) Region XV. All state law enforcement agencies and units, and Commission-certified training schools affiliated with the state law enforcement agencies, excluding the State Attorney's Offices, Florida Department of Corrections, Board of Regents, and the University Police Agencies.

~~(a) All state law enforcement agencies and units, excluding the State Attorney's Offices, Board of Regents, and the University Police Agencies.~~

~~(b) Commission certified training schools within Region XV: Florida Department of Law Enforcement Bureau of Professional Development, Florida Highway Patrol Training Academy, and Florida Fish and Wildlife Conservation Commission.~~

(16) Region XVI. Florida Department of Corrections and the Commission-certified training school affiliated with the Florida Department of Corrections.

~~(a) Florida Department of Corrections.~~

~~(b) Commission certified training school within Region XVI: Florida Department of Corrections Academy.~~  
Rulemaking Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.25(4)(5) FS. (Supp. 1998). History— New 1-13-81, Amended 7-28-82, 1-7-85, Formerly 11B-18.04, Amended 7-13-87, 1-2-97, 7-7-99, 8-22-00, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 9-28-09, 6-3-10, 3-13-13, 5-29-14, 7-29-15, \_\_\_\_\_.

11B-18.0053 Officer Training Monies Budget and Expenditure Categories.

(1) through (2) No change.

(3) Category II, Training Expenses. Each region shall not budget less than 80% of the total regional allocation of Officer Training Monies for the purpose of delivering regional Commission-approved Advanced and Specialized Training Program Courses.

(a) through (c) No change.

(d) Criminal justice officers and support personnel located in one region may attend training in a different region. Each region shall make provisions in its operating budget for the reciprocal payment of training provided to officers, pursuant to Section 943.25(5)(6), F.S., and support personnel, defined in Section 943.10(11), F.S., who attend training programs offered in other training regions. Reciprocal payment shall be limited to Commission

Category II training costs and each training region's fiscal agent shall be held accountable for receipt and disbursement of the region's reciprocal funds. Such costs shall be administered and paid by the fiscal agent charged with the responsibility for the reciprocal payment of training.

(e) No change.

(4) Category III, Operating Capital Outlay Expenses. Each region shall not budget more than 15% of the total regional allocation to purchase items that are non-consumable and non-expendable. Category III Operating Capital Outlay Expenses fall into the following categories:

(a) through (d) No change.

(e) Operating Capital Outlay Property shall not be disposed of or transferred without prior notification to and approval by Commission staff. An Operating Capital Outlay Property Disposal Request, form CJSTC-311, ~~created May 6, 2004~~, revised November 5, 2015 ~~December 16, 2010~~, effective 9/2016 ~~(effective 3/2013)~~, hereby incorporated by reference, shall be completed and submitted to Commission staff when disposing or transferring Operating Capital Outlay Property. Form CJSTC-311 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615.

1. through 3. No change.

(f) No change.

Rulemaking Authority 943.03(4), 943.12(1), (2), 943.25(2), (4), (5) FS. Law Implemented 943.25 FS. History-New 11-5-02. Amended 11-30-04, 6-3-10, 3-13-13,\_\_\_\_\_.

ANDY GARDINER  
President



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Senator Aaron Bean  
Senator Dwight Bullard  
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Senator Geraldine F. "Geri" Thompson  
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Representative Hazelle P. "Hazel" Rogers  
Representative Barbara Watson

STEVE CRISAFULLI  
Speaker



KENNETH J. PLANTE  
COORDINATOR  
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joint.admin.procedures@leg.state.fl.us

THE FLORIDA LEGISLATURE  
JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE

June 22, 2016

Ms. Joyce Gainous Harris  
Government Operations Consultant  
Florida Department of Law Enforcement  
2331 Phillips Road  
Tallahassee, Florida 32308

**RE: Department of Law Enforcement  
Rules 11B-20.001, .0014, .0016 and .0017**

Dear Ms. Gainous-Harris:

After reviewing the above-referenced rules, I offer the following comments for your consideration and written response:

- 11B-20.001(1)(a)** The paragraph states that a form may be obtained at the URL: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Programs-Forms.aspx>. However, when the URL is entered, it results in the message "Service Unavailable HTTP Error 503." Please revise the proposed rule text with a working hyperlink.
- 11B-20.001(3)** The coding for the subsection incorrectly identifies paragraph (3) as being a new subsection. Please revise.
- 11B-20.001(3)(a)3.a.** Please see the comment for rule 11B-20.001(1)(a).
- 11B-20.001(3)(a)5.a.** Please see the comment for rule 11B-20.001(1)(a).

**Rulemaking  
Authority**

Please explain how the rule implements section 119.071, F.S.

- 11B-20.0014(1)(d)** Please provide a hyperlink to form CJSTC-81 as required by section 120.54(1)(i)3.a., F.S.

RECEIVED

JUN 27 2016

Criminal Justice  
Professionalism Program

**Rulemaking  
Authority**

Please explain how the rule implements section 119.071, F.S.

**11B-20.0016(2)**

Please see the comment for rule 11B-20.001(1)(a).

**Rulemaking  
Authority**

Please explain how the rule implements section 119.071, F.S.

**11B-20.0017**

Please see the comment for rule 11B-20.001(1)(a).

**11B-20.0017(9)**

It appears as though this subsection is incorrectly coded as new subsection (9) when it is actually a revision of the existing subsection (8). Please revise as appropriate.

**Rulemaking  
Authority**

Please explain how the rule implements section 119.071, F.S.

Should you have any questions, please do not hesitate to contact me. Otherwise, I look forward to your written response.

Sincerely,



Sharon Jones  
Senior Attorney



Florida Department of  
Law Enforcement

Richard L. Swearingen  
*Commissioner*

**Office of General Counsel**  
Post Office Box 1489  
Tallahassee, Florida 32302-1489  
(850) 410-7676  
[www.fdle.state.fl.us](http://www.fdle.state.fl.us)

Rick Scott, *Governor*  
Pam Bondi, *Attorney General*  
Jeff Atwater, *Chief Financial Officer*  
Adam Putnam, *Commissioner of Agriculture*

July 5, 2016

Sharon Jones, Senior Attorney  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, FL 32399-1400

RE: Department of Law Enforcement  
Criminal Justice Standards and Training Commission  
Rules 11B-20.001, .0014, .0016 and .0017

Dear Ms. Jones:

I am writing in response to your letter dated June 22, 2016, regarding the JAPC -review and findings of the proposed rule revisions to Rule Chapter 11B-20, F.A.C., FDLE provides the following:

**JAPC Comment:**

**11B-20.001(1)(a):** The paragraph states that a form may be obtained at the URL: [http://www.fdle.state.fl.us/Content/CJSTIPublications/ProfessionalismProrams-Forms\\_aspx](http://www.fdle.state.fl.us/Content/CJSTIPublications/ProfessionalismProrams-Forms_aspx). However, when the URL is entered, it results in the message "Service Unavailable HTTP Error 503." Please revise the proposed rule text with a working hyperlink.

**FDLE Response:** As a result of a recent FDLE computer system upgrade, the hyperlink is no longer active. FDLE is in the process of providing a working hyperlink on its website to access Form CJSTC-311. FDLE requests that the proposed rule change be considered a technical revision after promulgation of the proposed rules. If that is not satisfactory to you, then FDLE will revise the link in the next rule promulgation package, which should begin in October or November of 2016.

**11B-20.001(3):** The coding for the subsection incorrectly identifies paragraph (3) as being a new subsection. Please revise.

**FDLE Response:** This rule section amends the revised Form CJSTC-81. The beginning section of paragraph (3)(a)3., is included to give context to the subparagraph in (3)(a)3.a.. There is no underlining in the section to denote there that it is a new subsection.

**11B-20.001(3)(a)3.a.:** Please see the comment for rule 11B-20.001(1)(a).

**FDLE Response:** Please see the response for rule 11B-20.001(1)(a).



**11B-20.001(3)(a)5.a.:** Please see the comment for rule 11B-20.001(1)(a).

**Rulemaking**

**Authority:** Please explain how the rule implements section 119.071, F.S.

**FDLE Response:** Please see the response for rule 11B-20.001(1)(a)

In May of 2015, a JAPC attorney required that FDLE include section 119.071 as Law Implemented in certain rules that pertain to social security numbers or the use of the last 4 numbers of a social number.

FDLE will make the revision in a technical memo to the Bureau of Administrative Code upon filing the rules for adoption. If that is not satisfactory to you, then FDLE will revise the statutes in the next rule promulgation package, which should begin in October or November of 2016.

**11B-20.0014(1)(d):** Please provide a hyperlink to form CJSTC-81 as required by section 120.54(1)(i)3.a., F.S.

**Rulemaking**

**Authority:** Please explain how the rule implements section 119.071, F.S.

**FDLE Response:** The hyperlink is not available, as it will be derived from the filing of incorporated by reference materials in the current proposed rules. The form will not be filed until the form is approved by your office. The F.A.C. specifies that the forms need to be filed at least 3 days before filing for adoption. See 1-1.013(5)(a), F.A.C. - Materials Incorporated by Reference.

In May of 2015, a JAPC attorney required that FDLE include section 119.071 as Law Implemented in certain rules that pertain to social security numbers or the use of the last 4 numbers of a social number.

FDLE will make the revision in a technical memo to the Bureau of Administrative Code upon filing the rules for adoption. If that is not satisfactory to you, then FDLE will revise the statutes in the next rule promulgation package, which should begin in October or November of 2016.

**11B-20.0016(2):** Please see the comment for rule I 11B-20.001(1)(a).

**Rulemaking**

**Authority:** Please explain how the rule implements section 119.071, F.S.

**FDLE Response:** Please see the response for rule 11B-20.001(1)(a).

In May of 2015, a JAPC attorney required that FDLE include section 119.071 as Law Implemented in certain rules that pertain to social security numbers or the use of the last 4 numbers of a social number.

FDLE will make the revision in a technical memo to the Bureau of Administrative Code upon filing the rules for adoption. If that is not satisfactory to you, then FDLE will revise the statutes in the next rule promulgation package, which should begin in October or November of 2016.

**11B-20.0017:** Please see the comment for rule 11B-20.001(1)(a).

**FDLE Response:** Please see the response for rule 11B-20.001(1)(a).

**11B-20.0017(9):** It appears as though this subsection is incorrectly coded as new subsection (9) when it is actually a revision of the existing subsection (8). Please revise as appropriate.

**Rulemaking**

**Authority:** Please explain how the rule implements section 119.071, F.S.

**FDLE Response:** These are 2 separate requirements. Paragraph 8 refers to individuals who just did not take the required continuing education course. Paragraph 9 refers to individuals who fail the required continuing education course - they are required to do everything for initial certification.

In May of 2015, a JAPC attorney required that FDLE include section 119.071 as Law Implemented in certain rules that pertain to social security numbers or the use of the last 4 numbers of a social number.

FDLE will make the revision in a technical memo to the Bureau of Administrative Code upon filing the rules for adoption. If that is not satisfactory to you, then FDLE will revise the statutes in the next rule promulgation package, which should begin in October or November of 2016.

If you have any additional questions or concerns, please do not hesitate to contact me.

Sincerely,



Fern Rosenwasser  
Assistant General Counsel

STATE OF FLORIDA

DEPARTMENT OF LAW ENFORCEMENT

CHAPTER 11B-20 FLORIDA ADMINISTRATIVE CODE

AMENDING RULE 11B-20.001, RULE 11B-20.0014, RULE 11B-20.0016, AND

RULE 11B-20.0017

SUMMARY OF THE RULE

Revises the Training Report, form CJSTC-67; revises the Instructor Competency Checklist, form CJSTC-81; revises the Affidavit of Separation, form CJSTC-61; identifies certain individuals who are eligible for First Aid Instructor Certification without completing additional Commission-approved training; qualifies instructor applicants to teach Underwater Police Science and Technology without having to take the course; changes the rule so that applicants who previously completed the Canine Team Training Course number 1112 will not be required to repeat the training with the new Canine Team Training Course number 1198; revises the Instructor Certification Deficiency Notification, form CJSTC-271; and clarifies requirements for Breath Test Instructors.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

11B-20.001(1)(a): Incorporates the revised Training Report, form CJSTC-67, to specify that only the applicant's last four digits are required for completion of the form.

11B-20.001(3)(a)3.a.: Revises the Instructor Competency Checklist, form CJSTC-81.

11B-20.001(3)(a)5.a.: Revises the Affidavit of Separation, form CJSTC-61.

11B-20.0014(1)(d): Incorporates the updated Instructor Competency Checklist, form CJSTC-81.

11B-20.0014(2)(d)6.-7.: Revises Rule 11B-20.0014(2)(d)6.-7., F.A.C., to reorganize the subparagraph rule text to identify certain individuals who are eligible for First Aid Instructor Certification without completing additional Commission-approved training, pursuant to Rule 11B-20.0014(2)(d)4.-5., F.A.C.

11B-20.0014(3)(a)3.-4.: Requires instructor applicants to possess a general instructor certification, scuba instructor or dive master certification, and must have been employed as a public safety diver or instructed Underwater Police Science and Technology within the past four years. The instructor requirements in rule qualify the instructor applicant to teach the course without having to take the course.

11B-20.0014(3)(c)3.: Changes the rule so that applicants who previously completed the Canine Team Training Course number 1112 will not be required to repeat the training with the new Canine Team Training Course number 1198.

11B-20.0016(2): Revises the Instructor Certification Deficiency Notification, form CJSTC-271.

11B-20.0017: Incorporates the revised Instructor Compliance Application, form CJSTC-84.

11B-20.0017(9): Clarifies the specific requirements for Breath Test Instructors who fail the Breath Test Instructor Renewal Course to complete a Commission-certified training school, a Breath Test internship, and apply for Breath Test Instructor certification.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND  
LEGISLATIVE RATIFICATION

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate

within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment.

#### FEDERAL COMPARISON STATEMENT

There are no federal requirements dealing with this topic.

#### SUMMARY OF HEARING

FDLE received no requests for a public hearing and no written comments were submitted.

## Notice of Proposed Rule

### **DEPARTMENT OF LAW ENFORCEMENT**

### **Criminal Justice Standards and Training Commission**

#### **RULE NOS.:RULE TITLES:**

11B-20.001 Definitions and Minimum Requirements for General Certification of Instructors

11B-20.0014 Minimum Requirements for High-Liability and Specialized Instructor Certifications

11B-20.0016 Inspection of Instructor Certification Applications

11B-20.0017 Maintenance and Duration of Instructor Certifications

**PURPOSE AND EFFECT:** Paragraph 11B-20.001(1)(a): Incorporates the revised Training Report, form CJSTC-67, to specify that only the applicant's last four digits are required for completion of the form.

Sub-paragraph 11B-20.001(3)(a)3.a., F.A.C.: Revises the Instructor Competency Checklist, form CJSTC-81.

Sub-paragraph 11B-20.001(3)(a)5.a., F.A.C.: Revises the Affidavit of Separation, form CJSTC-61.

Paragraph 11B-20.0014(1)(d), F.A.C.: Incorporates the updated Instructor Competency Checklist, form CJSTC-81.

Sub-paragraphs 11B-20.0014(2)(d)6.-7., F.A.C.: Revises sub-paragraphs 11B-20.0014(2)(d)6.-7., F.A.C., to reorganize the subparagraph rule text to identify certain individuals who are eligible for First Aid Instructor Certification without completing additional Commission-approved training, pursuant to sub-paragraphs 11B-20.0014(2)(d)4.-5., F.A.C.

Sub-paragraphs 11B-20.0014(3)(a)3.-4., F.A.C.: Requires instructor applicants to possess a general instructor certification, scuba instructor or dive master certification, and must have been employed as a public safety diver or instructed Underwater Police Science and Technology within the past four years. The instructor requirements in rule qualify the instructor applicant to teach the course without having to take the course.

Sub-paragraph 11B-20.0014(3)(c)3., F.A.C. Changes the rule so that applicants who previously completed the Canine Team Training Course number 1112 will not be required to repeat the training with the new Canine Team Training Course number 1198.

Subsection 11B-20.0016(2), F.A.C.: Revises the Instructor Certification Deficiency Notification, form CJSTC-271.

Rule 11B-20.0017, F.A.C.: Incorporates the revised Instructor Compliance Application, form CJSTC-84.

Subsection 11B-20.0017(9), F.A.C.: Clarifies the specific requirements for Breath Test Instructors who fail the Breath Test Instructor Renewal Course to complete a Commission-certified training school, a Breath Test internship, and apply for Breath Test Instructor certification.

**SUMMARY:** Revised Training Report, form CJSTC-67; revised Instructor Competency Checklist, form CJSTC-81; revised Affidavit of Separation, form CJSTC-61; First Aid Instructor Certification; Underwater Police Science and Technology; canine team training; revised Instructor Certification Deficiency Notification, form CJSTC-271; and requirements for Breath Test Instructors.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:** The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department's economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**RULEMAKING AUTHORITY:** 120.60(1), 943.03(4), 943.12(1), 943.14(3) FS.

**LAW IMPLEMENTED:** 119.071, 120.60(1), 943.12(3), (9), 943.3(6), 943.14(3) FS.

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):**

**DATE AND TIME:** Wednesday, June 29, 2016, 10:00 a.m.

**PLACE:** Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Joyce Gainous-Harris at (850)410-8615, or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joyce Gainous-Harris at (850)410-8615, or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308

NAME OF PERSON ORIGINATING PROPOSED RULE: Bureau Chief Glen Hopkins

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 02, 2016

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 30, 2015

THE FULL TEXT OF THE PROPOSED RULE IS:

11B-20.001 Definitions and Minimum Requirements for General Certification of Instructors.

(1) Definitions:

(a) "Successful completion" of a course is documented as a "Pass" on the completed Training Report, form CJSTC-67, revised November 5, 2015 ~~November 6, 2014~~, effective 9/2016 ~~7/2015~~, hereby incorporated by reference. Form CJSTC-67 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

(b) through (i) No change.

(2) No change.

(3) General Instructor Certification.

(a) Instructor applicants shall comply with the following requirements to obtain General Instructor Certification:

1. and 2. No change.

3. After successful completion of the mandatory instructor training, instructor applicants shall complete an internship.

a. The instructor applicant shall be supervised by and have his or her instructional abilities evaluated by a training center director or agency administrator, who is currently an instructor, or a designee who is currently an instructor. The training center director, agency administrator, or designee shall complete the Instructor Competency Checklist, form CJSTC-81, revised November 5, 2015 ~~November 7, 2013~~, effective 9/2016 ~~5/2014~~, hereby incorporated by reference. Form CJSTC-81 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

b. and c. No change.

4. No change.

5. Instructor Separation or Change of Affiliation.

a. When an instructor requests a change of affiliation, the training center director, agency administrator, or designee shall complete an Affidavit of Separation, form CJSTC-61, revised November 5, 2015 ~~December 16, 2010~~, effective 9/2016 ~~(effective 5/2012)~~, hereby incorporated by reference, and submit to Commission staff, or immediately transmit through the Commission's ATMS. Form CJSTC-61 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615. A copy shall be maintained in the instructor's file.

b. and c. No change.

(b) and (c) No change.

(4) through (6) No change.

Rulemaking Authority 943.03(4), 943.12(1), 943.14(3) FS. Law Implemented 119.071, 943.12(3), (9), 943.14(3) FS. History—New 7-21-82, Formerly 11B-20.01, Amended 10-26-88, 5-14-92, 12-8-92, 1-10-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 9-28-09, 6-3-10, 5-21-12, 3-13-13, 5-29-14, 7-29-15.

11B-20.0014 Minimum Requirements for High-Liability and Specialized Instructor Certifications.

(1) High-Liability Topics Instructor Certification. Instructor applicants shall comply with the following requirements for certification:

(a) through (c) No change.

(d) Be evaluated by his or her students. Student evaluation shall be reviewed with the instructor applicant by a training center director, agency administrator, or an instructor designated by the training center director or agency administrator and documented on the Instructor Competency Checklist form CJSTC-81, revised November 5, 2015, effective 9/2016, hereby incorporated by reference.

(e) and (f) No change.

(2) High-Liability Instructor Topics.

(a) through (c) No change.



(d) First Aid Instructor Certification. Instructor applicants who request to obtain certification to instruct in first aid shall:

1. through 5. No change.

6. Certain ~~The following~~ individuals, based on their education and training experience in the United States or its territories, are eligible for First Aid Instructor Certification without completing additional Commission-approved training and shall comply with subparagraphs (2)(d)4.-5. of this rule section:

a. Qualifying professional certifications or licenses:

1. Certified emergency medical technicians.

2. Certified paramedics.

3. Licensed physicians, who are actively involved in emergency care and have three years experience in emergency medical care.

4. Licensed physician's assistants, who are actively involved in emergency care and have three years experience in emergency medical care.

5. Registered nurses or licensed practical nurses, who are actively involved in emergency care and have three years experience in emergency medical care.

6. Members of the Armed Forces of the United States on active duty entitled to practice as an Emergency Medical Technician (EMT) or a Florida paramedic set forth in Chapter 401, F.S., Part III.

7. Full-time instructors at a vocational technical institution or an accredited college or university, who instruct medical topics in EMT, paramedic, nursing, physician, or physician assistance programs.

~~a. Certified emergency medical technicians.~~

~~b. Certified paramedics.~~

~~c. Licensed physicians, who are actively involved in emergency care and have three years experience in emergency medical care.~~

~~d. Licensed physician's assistants, who are actively involved in emergency care and have three years experience in emergency medical care.~~

~~e. Registered nurses or licensed practical nurses, who are actively involved in emergency care and have three years experience in emergency medical care.~~

~~f. Members of the Armed Forces of the United States on active duty entitled to practice as an Emergency Medical Technician (EMT) or a Florida paramedic set forth in Chapter 401, F.S., Part III.~~

~~g. Full time instructors at a vocational technical institution or an accredited college or university, who instruct medical topics in EMT, paramedic, nursing, physician, or physician assistance programs.~~

~~b.7.~~ To obtain a First Aid Instructor Certification, the instructor applicant shall provide a copy of the current qualifying professional's certification or license and shall not allow the qualifying professional's certification or license to lapse. The instructor applicant shall provide documentation of renewal to the certifying agency or training school. If the qualifying professional's certification or license expires during the certification period, the instructor shall not instruct in first aid until the professional's certification or license is renewed.

(3) Specialized Instructor Certifications. Instructor applicants who apply for a Specialized Instructor Certification shall have completed the applicable specialized instructor course within four years of the date the instructor applicant applies for certification. Instructor applicants who apply for a Specialized Instructor Certification more than four years from the date training was completed shall meet the requirements for completing an internship and demonstration of proficiency skills if applicable to the specialized topic. Instructor applicants shall meet the following requirements for each Specialized Instructor Certification requested:

(a) Criminal Justice Diving Instructor Certification to instruct the Underwater Police Science and Technology course number 077, pursuant to Rule 11B-35.006, F.A.C., shall:

1. and 2. No change.

3. Have been employed in the capacity of a public safety diver within the past four years, or have instructed the Underwater Police Science and Technology course within the past four years, ~~and~~

4. ~~Have successfully completed the Underwater Police Science and Technology course as a student.~~

(b) No change.

(c) Canine Team Instructor Certification. Instructor applicants who request to obtain certification to instruct Commission-approved canine team training courses shall:

1. and 2. No change.

3. Successfully complete the Canine Team Training Course number 1112 (retired 11/6/2013) or Canine Team Training Course number 1198 or an equivalent course approved by a Commission-approved evaluator, pursuant to subsection 11B-27.013(3), F.A.C.

4. through 8. No change.

(d) No change.

Rulemaking Authority 943.03(4), 943.12(1), 943.14(3) FS. Law Implemented ~~119.071~~, 943.12(3), (9), 943.13(6), 943.14(3) FS. History--New 7-29-01, Amended 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 9-28-09, 3-13-13, 5-29-14, 7-29-15, \_\_\_\_\_.

11B-20.0016 Inspection of Instructor Certification Applications.

(1) No change.

(2) If the instructor applicant's file at the training school or agency is missing documentation or contains deficient documentation, the instructor applicant and the training school or agency shall be notified of such documentation on the Instructor Certification Deficiency Notification, form CJSTC-271, revised November 5, 2015 ~~November 8, 2007~~, effective 9/2016, hereby incorporated by reference. Form CJSTC-271 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

(3) through (4) No change.

Rulemaking Authority 120.60(1), 943.03(4), 943.12(1), 943.14(3) FS. Law Implemented ~~119.071~~, 120.60(1), 943.12(3), (9), 943.14(3) FS. History--New 7-29-01, Amended 11-5-02, 11-30-04, 3-27-06, 6-9-08, 3-13-13, 7-29-15, \_\_\_\_\_.

11B-20.0017 Maintenance and Duration of Instructor Certifications. Documentation for instructors shall be maintained in the instructor's file at the respective training school or agency. Additionally, the training school or agency shall submit or transmit to Commission staff, through the Commission's ATMS, an Instructor Compliance Application, form CJSTC-84, revised November 5, 2015, effective 9/2016 ~~November 6, 2014~~, hereby incorporated by reference, to verify compliance with the mandatory retraining requirements. Form CJSTC-84 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615.

(1) through (8) No change.

(9) Breath Test Instructors who fail the Breath Test Instructor Renewal Course shall successfully complete the Breath Test Instructor Course and proficiency requirements outlined in paragraph 11B-35.0024(4)(d), F.A.C., through a Commission-certified training school, complete a Breath Test internship, and apply for Breath Test Instructor certification.

Rulemaking Authority 943.03(4), 943.12(1), 943.14(3) FS. Law Implemented ~~119.071~~, 943.12(3), ~~(9)~~, 943.14(3) FS. History--New 7-29-01, Amended 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 6-3-10, 3-13-13, 5-29-14, 7-29-15, \_\_\_\_\_.

ANDY GARDINER  
President



Senator Denise Grimsley, Chair  
Representative W. Travis Cummings, Vice Chair  
Senator Aaron Bean  
Senator Dwight Bullard  
Senator Nancy C. Detert  
Senator Geraldine F. "Geri" Thompson  
Representative Matt Hudson  
Representative Lake Ray  
Representative Hazelle P. "Hazel" Rogers  
Representative Barbara Watson

STEVE CRISAFULLI  
Speaker



KENNETH J. PLANTE  
COORDINATOR  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, Florida 32399-1400  
Telephone (850) 488-9110  
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www.japc.state.fl.us  
joint.admin.procedures@leg.state.fl.us

THE FLORIDA LEGISLATURE  
JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE

June 22, 2016

Ms. Joyce Gainous Harris  
Government Operations Consultant  
Florida Department of Law Enforcement  
2331 Phillips Road  
Tallahassee, Florida 32308


**RE: Department of Law Enforcement  
Rules 11B-21.002, .005, .018 and .019**

Dear Ms. Gainous-Harris:

After reviewing the above-referenced rules, I offer the following comments for your consideration and written response:

- Passim** The rules state that various forms may be obtained at the URL:<http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Programs-Forms.aspx>. However, when the URL is entered, it results in the message "Service Unavailable HTTP Error 503." Please revise the appropriate rule text with a working hyperlink.
- 11B-21.005(7)** The proposed rule text refers to form CJSTC-208 as "CMS First Aid Instructional Requirements" while the form itself is entitled "First Aid Instructional Requirements." Please revise the title so that the form and the rule text are in accord.

Should you have any questions, please do not hesitate to contact me. Otherwise, I look forward to your written response.

Sincerely,  
  
Sharon Jones  
Senior Attorney

RECEIVED  
JUN 27 2016  
Criminal Justice  
Professionalism Program



Florida Department of  
Law Enforcement

Richard L. Swearingen  
*Commissioner*

**Office of General Counsel**  
Post Office Box 1489  
Tallahassee, Florida 32302-1489  
(850) 410-7676  
[www.fdle.state.fl.us](http://www.fdle.state.fl.us)

Rick Scott, *Governor*  
Pam Bondi, *Attorney General*  
Jeff Atwater, *Chief Financial Officer*  
Adam Putnam, *Commissioner of Agriculture*

July 5, 2016

Sharon Jones, Senior Attorney  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, FL 32399-1400

RE: Department of Law Enforcement  
Criminal Justice Standards and Training Commission  
Rules 11B-21.002, .005, .018 and .019

Dear Ms. Jones:

I am writing in response to your letter dated June 22, 2016, regarding the JAPC -review and findings of the proposed rule revisions to Rule Chapter 11B-21, F.A.C., FDLE provides the following:

**JAPC Comment:**

**Passim**

The rules state that various forms may be obtained at the URL:<http://www.fdle.state.fl.us/Content/CJSTIPublicationsIProfessionalism-Programs-Forms.aspx>. However, when the URL is entered, it results in the message "Service Unavailable HTTP Error 503." Please revise the appropriate rule text with a working hyperlink.

**FDLE Response:** As a result of a recent FDLE computer system upgrade, the hyperlink is no longer active. FDLE is in the process of providing a working hyperlink on its website to access Form CJSTC-311. FDLE requests that the proposed rule change be considered a technical revision after promulgation of the proposed rules. If that is not satisfactory to you, then FDLE will revise the link in the next rule promulgation package, which should begin in October or November of 2016.

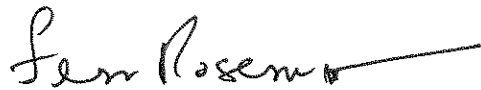
**11B-21.005(7)**

The proposed rule text refers to form CJSTC-208 as "CMS First Aid Instructional Requirements" while the form itself is entitled "First Aid Instructional Requirements." Please revise the title so that the form and the rule text are in accord.

**FDLE Response:** FDLE will revise the proposed rule text to remove "CMS" from the form title. FDLE will make the revision in a technical memo to the Bureau of Administrative Code upon filing the rules for adoption. If that is not satisfactory to you, then FDLE will revise the r in the next rule promulgation package, which should begin in October or November of 2016.

If you have any additional questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Fern Rosenwasser". The signature is written in a cursive style with a long horizontal line extending to the right from the end of the name.

Fern Rosenwasser  
Assistant General Counsel

STATE OF FLORIDA

DEPARTMENT OF LAW ENFORCEMENT

CHAPTER 11B-21 FLORIDA ADMINISTRATIVE CODE

AMENDING RULE 11B-21.002, RULE 11B-21.005, RULE 11B-21.018, AND

RULE 11B-21.019

SUMMARY OF THE RULE

Updates the statutory references; revises the CMS First Aid Instructional Requirements, form CJSTC-208; and updates the training school guidelines and inspections.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

11B-21.002(2): Updates the statutory reference.

11B-21.005(4)(a), (5), (6), (7): Updates the rule reference and revises the CMS First Aid Instructional Requirements, form CJSTC-208, to update the list of equipment and training kit materials necessary to properly conduct Commission-approved first aid training.

11B-21.018(3): Updates the statutory reference.

11B-21.019: Updates the statutory reference.

11B-21.019(1): Clarifies a time limit of December 31 of each year for inspections to be completed and specifies that the training center director or designee is allowed to conduct annual facility inspections within the five-year recertification period.

11B-21.019(3): Specifies that the training center director or designee must notify Commission staff if a non-compliance issue is found to ensure that appropriate action and follow-up can be taken; and clarifies that a facility may not be used if it has areas of non-compliance.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND  
LEGISLATIVE RATIFICATION

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment.

FEDERAL COMPARISON STATEMENT

There are no federal requirements dealing with this topic.

SUMMARY OF HEARING

FDLE received no requests for a public hearing and no written comments were submitted.

## Notice of Proposed Rule

### **DEPARTMENT OF LAW ENFORCEMENT**

#### **Criminal Justice Standards and Training Commission**

##### **RULE NOS.:RULE TITLES:**

11B-21.002 Criminal Justice Training Schools' Request for Certification, Expansion of Certification, and Re-certification

11B-21.005 Criminal Justice Training School Requirements for Certification and Re-certification

11B-21.018 Criminal Justice Training School Disciplinary Guidelines and Revocation of Certification

11B-21.019 Criminal Justice Training School Inspections

**PURPOSE AND EFFECT:** Subsection 11B-21.002(2): Updates the statutory reference.

Subsections 11B-21.005(4)(a), (5), (6), (7), F.A.C.: Updates the rule reference and revises the CMS First Aid Instructional Requirements, form CJSTC-208, to update the list of equipment and training kit materials necessary to properly conduct Commission-approved first aid training.

Subsection 11B-21.018(3), F.A.C.: Updates the statutory reference.

Rule 11B-21.019, F.A.C.: Updates the statutory reference.

Subsection 11B-21.019(1), F.A.C.: Clarifies a time limit of December 31 of each year for inspections to be completed and specifies that the training center director or designee is allowed to conduct annual facility inspections within the five-year recertification period.

Subsection 11B-21.019(3), F.A.C.: Specifies that the training center director or designee must notify Commission staff if a non-compliance issue is found to ensure that appropriate action and follow-up can be taken; and clarifies that a facility may not be used if it has areas of non-compliance.

**SUMMARY:** Updates to statutory references; revised CMS First Aid Instructional Requirements, form CJSTC-208; and training school guidelines and inspections.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:** The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department's economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**RULEMAKING AUTHORITY:** 943.03(4), 943.12(1), (2) FS.

**LAW IMPLEMENTED:** 943.12(3), 943.14 FS.

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):**

**DATE AND TIME:** Wednesday, June 29, 2016, 10:00 a.m.

**PLACE:** Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Joyce Gainous-Harris at (850)410-8615, or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Joyce Gainous-Harris at (850)410-8615, or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308



THE FULL TEXT OF THE PROPOSED RULE IS:

11B-21.002 Criminal Justice Training Schools' Request for Certification, Expansion of Certification, and Re-certification.

(1) No change.

(2) Pursuant to Section 943.12(3)(7), F.S., the Commission shall authorize the issuance of certificates to criminal justice training schools. A training school shall be categorized as a type "A," "B," or "C," certification and assigned one of the following certification codes:

(a) through (c) No change.

(3) through (5) No change.

Rulemaking Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.12(3), (7), 943.14 FS. History--New 7-21-82, Amended 1-28-86, Formerly 11B-21.02, Amended 12-13-92, 1-2-97, 7-7-99, 8-22-00, 11-5-02, 11-30-04, 3-21-07, 6-9-08, 9-28-09, 3-13-13, 7-29-15, \_\_\_\_\_.

11B-21.005 Criminal Justice Training School Requirements for Certification and Re-certification.

Training Schools certified by the Commission shall comply with the following requirements:

(1) through (3) No change.

(4) Driving Range Facility, Equipment, and Instructor to Student Ratio Requirements.

(a) When conducting Commission-approved vehicle operations training, comply with the driving range facility, equipment, and instructor to student ratio requirements set forth in subsection 11B-35.0021(8)(7), F.A.C., and in the Driving Range Facility and Equipment Requirements, form CJSTC-202, revised November 7, 2013, effective 5/2014, hereby incorporated by reference. Form CJSTC-202 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

(b) No change.

(5) Defensive Tactics Facility, Equipment, and Instructor to Student Ratio Requirements. When conducting Commission-approved defensive tactics training, comply with the defensive tactics equipment, facility, and instructor to student ratio requirements set forth in subsection 11B-35.0021(8)(7), F.A.C., and in the Defensive Tactics Facility and Equipment Requirements, form CJSTC-203, revised November 7, 2013, effective 5/2014, hereby incorporated by reference. Form CJSTC-203 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

(6) Firing Range Facility, Equipment, and Instructor to Student Ratio Requirements. When conducting Commission-approved firearms training, comply with the firing range equipment, facility, and instructor to student ratio requirements set forth in subsection 11B-35.0021(8)(7), F.A.C., and in the Firing Range Facility and Equipment Requirements, form CJSTC-201, revised December 16, 2010, (effective 3/2013), hereby incorporated by reference. Form CJSTC-201 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615. Firearms training shall be supervised directly by a Commission-certified firearms instructor and the instructor shall have access to at least one firearms range designed for criminal justice firearms instruction.

(7) First Aid Facility, Equipment, and Instructor to Student Ratio Requirements. When conducting Commission-approved first aid training, comply with the first aid equipment, facility, and instructor to student ratio requirements set forth in subsection 11B-35.0021(8)(7), F.A.C., and in the CMS First Aid Instructional Requirements, form CJSTC-208, revised November 5, 2015 ~~December 16, 2010~~, effective 9/2016 ~~(effective 3/2013)~~, hereby incorporated by reference. Form CJSTC-208 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

(8) through (12) No change.

Rulemaking Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.12(2), (3), (8), ~~(7)~~, 943.14, 943.17(1)(g) FS. History–New 7-21-82, Formerly 11B-21.05, Amended 1-28-86, 8-30-89, 12-24-89, 6-3-91, 12-13-92, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 9-28-09, 5-21-12, 3-13-13, 5-29-14.

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11B-21.018 Criminal Justice Training School Disciplinary Guidelines and Revocation of Certification.

(1) through (2) No change.

(3) Should the Commission revoke the certification of a training school, Commission staff shall schedule an audit and inventory pursuant to Sections 943.12(3) and 943.25(3)(4), F.S., of class file documentation, monies, equipment, and property that have been acquired by the training school with Criminal Justice Standards and Training Trust Fund Officer Training Monies. The audit and inventory shall be conducted within thirty calendar days from the date the Commission took action on the training school's certification, and:

(a) through (d) No change.

(4) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.12(3), 943.14, 943.25(3) FS. History–New 10-17-90, Amended 12-13-92, 8-7-94, 1-2-97, 7-7-99, 8-22-00, 11-5-02, 11-30-04, 6-9-08.

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11B-21.019 Criminal Justice Training School Inspections. Section 943.12(3)(7), F.S., authorizes the Criminal Justice Standards and Training Commission to issue certificates to criminal justice training schools. These training schools shall abide by the requirements for administration and instruction of Commission-approved training pursuant to Rule Chapters 11B-21 and 11B-35, F.A.C.

(1) A comprehensive inspection of training schools shall be conducted annually no later than December 31 of each year, at minimum, by Commission staff or the training center director or designee, to ensure compliance with Rules 11B-21.005 and 11B-21.0051, F.A.C. Commission staff shall conduct a comprehensive inspection of the training schools during the second year of the five-year training school certification period and in conjunction with the five-year training school recertification, pursuant to Rule 11B-21.002(5)(b), F.A.C. The training center director or designee shall conduct a comprehensive inspection of their training school during each of the remaining years of the training school certification period. When the training center director or designee conducts an inspection, the ~~The~~ training center director or designee shall complete, sign, and forward to Commission staff, the following applicable form(s):

(a) through (d) No change.

(2) No change.

(3) The training center director or designee will notify Commission staff immediately if any areas of non-compliance are noted during the annual inspection. Training schools shall correct the areas of non-compliance within 30 days from the date the training center director or designee conducts the inspection or the date the training schools are notified by Commission staff. All areas of non-compliance shall be corrected or prior to the subsequent use of the facilities for delivery of training.

(4) through (6) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.12(3), ~~(7)~~, 943.14 FS. History–New, 11-5-02, Amended 11-30-04, 6-9-08.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bureau Chief Glen Hopkins

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 2, 2016

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 30, 2015

THE FULL TEXT OF THE PROPOSED RULE IS:

11B-21.002 Criminal Justice Training Schools' Request for Certification, Expansion of Certification, and Re-certification.

(1) No change.

(2) Pursuant to Section 943.12(3)(7), F.S., the Commission shall authorize the issuance of certificates to criminal justice training schools. A training school shall be categorized as a type "A," "B," or "C," certification and assigned one of the following certification codes:

(a) through (c) No change.

(3) through (5) No change.

Rulemaking Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.12(3), (7), 943.14 FS. History--New 7-21-82, Amended 1-28-86, Formerly 11B-21.02, Amended 12-13-92, 1-2-97, 7-7-99, 8-22-00, 11-5-02, 11-30-04, 3-21-07, 6-9-08, 9-28-09, 3-13-13, 7-29-15,\_\_\_\_\_.

11B-21.005 Criminal Justice Training School Requirements for Certification and Re-certification.

Training Schools certified by the Commission shall comply with the following requirements:

(1) through (3) No change.

(4) Driving Range Facility, Equipment, and Instructor to Student Ratio Requirements.

(a) When conducting Commission-approved vehicle operations training, comply with the driving range facility, equipment, and instructor to student ratio requirements set forth in subsection 11B-35.0021(8)(7), F.A.C., and in the Driving Range Facility and Equipment Requirements, form CJSTC-202, revised November 7, 2013, effective 5/2014, hereby incorporated by reference. Form CJSTC-202 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

(b) No change.

(5) Defensive Tactics Facility, Equipment, and Instructor to Student Ratio Requirements. When conducting Commission-approved defensive tactics training, comply with the defensive tactics equipment, facility, and instructor to student ratio requirements set forth in subsection 11B-35.0021(8)(7), F.A.C., and in the Defensive Tactics Facility and Equipment Requirements, form CJSTC-203, revised November 7, 2013, effective 5/2014, hereby incorporated by reference. Form CJSTC-203 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

(6) Firing Range Facility, Equipment, and Instructor to Student Ratio Requirements. When conducting Commission-approved firearms training, comply with the firing range equipment, facility, and instructor to student ratio requirements set forth in subsection 11B-35.0021(8)(7), F.A.C., and in the Firing Range Facility and Equipment Requirements, form CJSTC-201, revised December 16, 2010, (effective 3/2013), hereby incorporated by reference. Form CJSTC-201 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615. Firearms training shall be supervised directly by a Commission-certified firearms instructor and the instructor shall have access to at least one firearms range designed for criminal justice firearms instruction.

(7) First Aid Facility, Equipment, and Instructor to Student Ratio Requirements. When conducting Commission-approved first aid training, comply with the first aid equipment, facility, and instructor to student ratio requirements set forth in subsection 11B-35.0021(8)(7), F.A.C., and in the CMS First Aid Instructional Requirements, form CJSTC-208, revised November 5, 2015 ~~December 16, 2010~~, effective 9/2016 ~~(effective 3/2013)~~, hereby incorporated by reference. Form CJSTC-208 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

(8) through (12) No change.

Rulemaking Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.12(2), (3), (8), (7), 943.14, 943.17(1)(g) FS. History–New 7-21-82, Formerly 11B-21.05, Amended 1-28-86, 8-30-89, 12-24-89, 6-3-91, 12-13-92, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 9-28-09, 5-21-12, 3-13-13, 5-29-14.

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11B-21.018 Criminal Justice Training School Disciplinary Guidelines and Revocation of Certification.

(1) through (2) No change.

(3) Should the Commission revoke the certification of a training school, Commission staff shall schedule an audit and inventory pursuant to Sections 943.12(3) and 943.25(3)(4), F.S., of class file documentation, monies, equipment, and property that have been acquired by the training school with Criminal Justice Standards and Training Trust Fund Officer Training Monies. The audit and inventory shall be conducted within thirty calendar days from the date the Commission took action on the training school's certification, and:

(a) through (d) No change.

(4) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.12(3), 943.14, 943.25(3) FS. History–New 10-17-90, Amended 12-13-92, 8-7-94, 1-2-97, 7-7-99, 8-22-00, 11-5-02, 11-30-04, 6-9-08.

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11B-21.019 Criminal Justice Training School Inspections. Section 943.12(3)(7), F.S., authorizes the Criminal Justice Standards and Training Commission to issue certificates to criminal justice training schools. These training schools shall abide by the requirements for administration and instruction of Commission-approved training pursuant to Rule Chapters 11B-21 and 11B-35, F.A.C.

(1) A comprehensive inspection of training schools shall be conducted annually no later than December 31 of each year, at minimum, by Commission staff or the training center director or designee, to ensure compliance with Rules 11B-21.005 and 11B-21.0051, F.A.C. Commission staff shall conduct a comprehensive inspection of the training schools during the second year of the five-year training school certification period and in conjunction with the five-year training school recertification, pursuant to Rule 11B-21.002(5)(b), F.A.C. The training center director or designee shall conduct a comprehensive inspection of their training school during each of the remaining years of the training school certification period. When the training center director or designee conducts an inspection, the ~~The~~ training center director or designee shall complete, sign, and forward to Commission staff, the following applicable form(s):

(a) through (d) No change.

(2) No change.

(3) The training center director or designee will notify Commission staff immediately if any areas of non-compliance are noted during the annual inspection. Training schools shall correct the areas of non-compliance within 30 days from the date the training center director or designee conducts the inspection or the date the training schools are notified by Commission staff. All areas of non-compliance shall be corrected or prior to the subsequent use of the facilities for delivery of training.

(4) through (6) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.12(3), (7), 943.14 FS. History–New, 11-5-02, Amended 11-30-04, 6-9-08.

ANDY GARDINER  
President



Senator Denise Grimsley, Chair  
Representative W. Travis Cummings, Vice Chair  
Senator Aaron Bean  
Senator Dwight Bullard  
Senator Nancy C. Detert  
Senator Geraldine F. "Geri" Thompson  
Representative Matt Hudson  
Representative Lake Ray  
Representative Hazelle P. "Hazel" Rogers  
Representative Barbara Watson

STEVE CRISAFULLI  
Speaker



KENNETH J. PLANTE  
COORDINATOR  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, Florida 32399-1400  
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THE FLORIDA LEGISLATURE  
JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE

June 22, 2016

Ms. Joyce Gainous Harris  
Government Operations Consultant  
Florida Department of Law Enforcement  
2331 Phillips Road  
Tallahassee, Florida 32308

**RE: Department of Law Enforcement  
Rules 11B-27.0011, .002, .00212, .00213, .004, .005 and .013**

Dear Ms. Gainous-Harris:

After reviewing the above-referenced rules, I offer the following comments for your consideration and written response:

- Passim** The rules state that various forms may be obtained at the URL:<http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Programs-Forms.aspx>. However, when the URL is entered, it results in the message "Service Unavailable HTTP Error 503." Please revise the appropriate rule text with a working hyperlink.
- 11B-27.002** Please explain how the rule implements section 119.71, F.S.
- 11B-27.00212** Please see the comment for rule 11B-27.002.
- 11B-27.013** Please see the comment for rule 11B-27.002.

Should you have any questions, please do not hesitate to contact me. Otherwise, I look forward to your written response.

Sincerely,

Sharon Jones  
Senior Attorney

RECEIVED

JUN 27 2016

Criminal Justice  
Professionalism Program



Florida Department of  
Law Enforcement

Richard L. Swearingen  
*Commissioner*

**Office of General Counsel**  
Post Office Box 1489  
Tallahassee, Florida 32302-1489  
(850) 410-7676  
[www.fdle.state.fl.us](http://www.fdle.state.fl.us)

Rick Scott, *Governor*  
Pam Bondi, *Attorney General*  
Jeff Atwater, *Chief Financial Officer*  
Adam Putnam, *Commissioner of Agriculture*

July 5, 2016

Sharon Jones, Senior Attorney  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, FL 32399-1400

RE: Department of Law Enforcement  
Criminal Justice Standards and Training Commission  
Rules 11B-27.0011, .002, .00212, .00213, .004, .005 and .013

Dear Ms. Jones:

I am writing in response to your letter dated June 22, 2016, regarding the JAPC -review and findings of the proposed rule revisions to Rule Chapter 11B-27, F.A.C., FDLE provides the following:

**JAPC Comment:**

**Passim**

The rules state that various forms may be obtained at the URL:<http://www.fdle.state.fl.us/Content/CJSTIPublicationsIProfessionalism-Programs-Forms.aspx>. However, when the URL is entered, it results in the message "Service Unavailable HTTP Error 503." Please revise the appropriate rule text with a working hyperlink.

**FDLE Response:** As a result of a recent FDLE computer system upgrade, the hyperlink is no longer active. FDLE is in the process of providing a working hyperlink on its website to access Form CJSTC-311. FDLE requests that the proposed rule change be considered a technical revision after promulgation of the proposed rules. If that is not satisfactory to you, then FDLE will revise the link in the next rule promulgation package, which should begin in October or November of 2016.

**11B-27.002:** Please explain how the rule implements section 119.[0]71, F.S.

**FDLE Response:** In May of 2015, a JAPC attorney required that FDLE include section 119.071, F.S., as Law Implemented in certain rules that pertain to social security numbers or the use of the last 4 numbers of a social number.

FDLE will make the revision in a technical memo to the Bureau of Administrative Code upon filing the rules for adoption. If that is not satisfactory to you, then FDLE will revise the statutes in the next rule promulgation package, which should begin in October or November of 2016.

**11B-27.00212:** Please see the comment for rule 11B-27.002.

**FDLE Response:** Please see response for rule 11B-27.002.

**11B-27.013:** Please see the comment for rule 11B-27.002.

**FDLE Response:** Please see response for rule 11B-27.002

If you have any additional questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Fern Rosenwasser". The signature is written in a cursive style with a long horizontal line extending to the right from the end of the name.

Fern Rosenwasser  
Assistant General Counsel

STATE OF FLORIDA

DEPARTMENT OF LAW ENFORCEMENT

CHAPTER 11B-27 FLORIDA ADMINISTRATIVE CODE

AMENDING RULE 11B-27.0011, RULE 11B-27.002, RULE 11B-27.00212,  
RULE 11B-27.00213, RULE 11B-27.004, RULE 11B-27.005, AND RULE 11B-27.013

SUMMARY OF THE RULE

Removes the charge of misdemeanor Video Voyeurism and associated penalty guidelines from the misdemeanor or criminal offenses; Includes a specific timeframe in which an officer can recant a false statement; revises the Temporary Employment Authorization Statement, form CJSTC-65; revises the Exemption-From-Training, form CJSTC-76; revises the Exemption-From-Training, form CJSTC-76; revises the Affidavit of Separation, form CJSTC-61; updates the statutory law being implemented by this rule to include 119.071, F.S.; updates the Injury or Illness Exemption for the Firearms Law Enforcement Officer Qualification Standard, form CJSTC-86B; updates the list of programs that law enforcement officers may complete to satisfy the Elder Abuse Training requirement; deletes the retired Basic Recruit Training Programs (BRTP) Probable Cause Determination; updates the requirements for canine team certification; removes the 7/1/12 effective date and adds a 6/30/14 retired date to the Correctional Officer Cross-Over Training to Florida CMS Law Enforcement BRTP number 1191; deletes the retired Traditional Correctional Probation Cross-Over to CMS Application-Based Law Enforcement BRTP number 1157; removes the 7/1/12 effective date and adds a 6/30/14 retired date to the Correctional Probation Officer Cross-Over Training to Florida CMS Law Enforcement BRTP number 1179; revises the CMS Firearms Performance Evaluation, form CJSTC-4 CMS; removes subsections pertaining to the issuance of a Letter of Acknowledgment; adds the felony charge of



Video Voyeurism to the list of enumerated penalty guidelines; adds language to specify the charge of Falsification of a Use of Force Report is included in the enumerated penalty guidelines for misdemeanors involving false reports and statements; removes the misdemeanor charge of Video Voyeurism (810.145, F.S.) from the list of enumerated penalty guidelines misdemeanor as a result of a 2012 statutory change; changes the recommended penalty range for the violation of sexual harassment involving physical contact or misuse of position to “probation with training to suspension with training.”; revises the Canine Team Certification Application, form CJSTC-70; revises the Canine Course Equivalency Checklist, form CJSTC-70A; updates the certification requirements for canine team evaluator applicants; and revises the Training Report, form CJSTC-67.

#### FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

11B-27.0011(4)(b)1.: Amends the current rule language by removing the charge of Video Voyeurism (810.145, F.S.) as a result of a 2012 statutory change which made the charge a misdemeanor for anyone under 19 years old, and a felony for anyone 19 years old or older.

11B-27.0011(5): Specifies a timeframe of 10 calendar days during which an officer can recant a false statement prior to the employing agency’s conclusion of the internal affairs investigation.

11B-27.002(3)(a)4.: Revises the Temporary Employment Authorization Statement, form CJSTC-65, to clarify the firearms training requirements outlined in Rule 11B-27.00213(2)(a), F.A.C., and specify that agencies must document and verify the appropriate training of the officer if he or she is carrying a firearm. Also specifies that only the last four digits of the applicant’s social security number are required for completion of the form, and this information may be requested, pursuant to 119.071, F.S.

11B-27.002(3)(a)11.: Incorporates the revised Exemption-From-Training, form CJSTC-76, to specify that only the last four digits of the applicant's social security number are required for completion of the form, and this information may be requested, pursuant to 119.071, F.S.

11B-27.002(3)(a)15.: Revises the Affidavit of Separation, form CJSTC-61, and removes the possible negative stigma associated with a person being "terminated" when this reason is typically used for a separation beyond the officer's control such as the dissolution of the agency.

11B-27.00212(14)(e): Updates the name of the Injury or Illness Exemption for the Firearms Law Enforcement Officer Qualification Standard, form CJSTC-86B, and specifies that only the last four digits of the applicant's social security number are required for completion of the form, and this information may be requested, pursuant to 119.071, F.S.

11B-27.00212(15)(c): Updates the list of programs that law enforcement officers may complete to satisfy the Elder Abuse Training requirement and renumbers Rule 11B-27.00212(15)(c)1.-10., F.A.C., because sub-paragraphs # 1, 3, and 5 were removed.

11B-27.00212(15)(c)1.: Removes the CMS Application-Based Law Enforcement Basic Recruit Training Program (BRTP) number 224 from the list of programs that law enforcement officers may complete to satisfy the Elder Abuse Training requirement because the program has been retired for more than four years.

11B-27.00212(15)(c)3.: Removes the Traditional Correctional Cross-Over to CMS Application-Based Law Enforcement BRTP number 1143 from the list of programs that law enforcement officers may complete to satisfy the Elder Abuse Training requirement because the program has been retired for more than four years.

11B-27.00212(15)(c)4.: Updates the status of the Correctional Officer Cross-Over Training to Florida CMS Law Enforcement BRTP number 1191 because the program was retired on 6/30/14.

11B-27.00212(15)(c)5.: Removes the Traditional Correctional Probation Cross-Over to CMS Application-Based Law Enforcement BRTP number 1157 from the list of programs that law enforcement officers may complete to satisfy the Elder Abuse Training requirement because the program has been retired for more than four years.

11B-27.00212(15)(c)6.: Updates the status of the Correctional Probation Officer Cross-Over Training to Florida CMS Law Enforcement BRTP number 1179 because the program was retired on 6/30/14.

11B-27.00213(2)(b): Revises the CMS Firearms Performance Evaluation, form CJSTC-4 CMS, to include local agencies; adds the Safe Handling of Firearms Course to the list of courses required to maintain the instructor to student ratio; adds a line for the rangemaster's printed name; clarifies language on the proficiency check lists; and revises language to clarify scoring criteria.

11B-27.004(8)-(14): Deletes subsection 11B-27.004(8), F.A.C., and renumbers subsections 11B-27.004(9)-(14) because Commission staff will no longer issue a Letter of Acknowledgment to respondents who have been terminated by an employing agency.

11B-27.004(9)(e): Deletes the previous subsection 11B-27.004(9)(e), F.A.C., due to the removal of subsection 11B-27.004(8), F.A.C., reference Commission staff issuing a Letter of Acknowledgment to respondents who have been terminated by the employing agency.

11B-27.005(5)(a)18.: Adds the felony charge of Video Voyeurism to the list of enumerated penalty guidelines as a result of a 2012 statutory change to the charge of misdemeanor Video Voyeurism and associated penalty guidelines.

11B-27.005(b)4.: Specifies that the charge of Falsification of a Use of Force Report [Section 944.35(4)(b), F.S.] is included in the penalty guidelines for misdemeanors involving false reports and statements. Both Falsification of a Use of Force Report [Section 944.35(4)(b), F.S.] and Failure to Report Use of Force [Section 944.35(4)(a), F.S.] are included within the statute; however, only Section 944.35(4)(b), F.S., involves a false statement.

11B-27.005(b)8.: Removes the charge of misdemeanor Video Voyeurism and associated penalty guideline from the list of enumerated penalty guidelines as a result of a 2012 statutory change that made the charge a misdemeanor for anyone under 19 years old and a felony for anyone 19 years old or older. Since the Commission requires an individual to be 19 years old in order to become certified, the charge of misdemeanor Video Voyeurism and associated penalty guideline should be removed from rule.

11B-27.005(5)(c)2.: Amends the current rule language to address cases involving officers with a sustained charge of Sexual Harassment. Those who have been suspended by their agency, qualifying them to receive a Letter of Acknowledgement (LOA) from the Commission since the agency's discipline met the Commission's penalty guideline. The current penalty guideline for this charge is probation with training to suspension. An officer receiving at least a one-day suspension, regardless of training, is eligible for an LOA. A change to rule will ensure that the officer will receive the necessary training from the agency or through the Commission's discipline process.

11B-27.013(2)(e): Incorporates the revised Canine Team Certification Application, form CJSTC-70, to specify that only the last four digits of the applicant's social security number are required for completion of the form, and this information may be requested, pursuant to 119.071, F.S.

11B-27.013(3)(b)2.: Revises the Canine Course Equivalency Checklist, form CJSTC-70A, to include the canine handler's name as well as the canine's name.

11B-27.013(7)(a)2.: Adds language to allow canine team evaluator applicants to meet certification requirements if they have trained a minimum of six canine teams using the retired Canine Team Training Course number 1112.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND  
LEGISLATIVE RATIFICATION

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment.

FEDERAL COMPARISON STATEMENT

There are no federal requirements dealing with this topic.

## SUMMARY OF HEARING

FDLE received no requests for a public hearing and no written comments were submitted.

## Notice of Proposed Rule

### **DEPARTMENT OF LAW ENFORCEMENT**

#### **Criminal Justice Standards and Training Commission**

RULE NOS.:      RULE TITLES:

11B-27.0011      Moral Character

11B-27.002      Certification, Employment or Appointment, Reactivation, and Terminating Employment or Appointment of Officers

11B-27.00212     Maintenance of Officer Certification

11B-27.00213     Temporary Employment Authorization

11B-27.004      Probable Cause Determination

11B-27.005      Revocation or Disciplinary Actions; Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

11B-27.013      Canine Team Certification

PURPOSE AND EFFECT: Sub-paragraph 11B-27.0011(4)(b)1.: Amends the current rule language by removing the charge of Video Voyeurism (810.145, F.S.) as a result of a 2012 statutory change which made the charge a misdemeanor for anyone under 19 years old, and a felony for anyone 19 years old or older.

Subsection 11B-27.0011(5), F.A.C.: Specifies a timeframe of 10 calendar days during which an officer can recant a false statement prior to the employing agency's conclusion of the internal affairs investigation.

Sub-paragraph 11B-27.002(3)(a)4, F.A.C.: Revises the Temporary Employment Authorization Statement, form CJSTC-65.

Sub-paragraph 11B-27.002(3)(a)11, F.A.C.: Incorporates the revised Exemption-From-Training, form CJSTC-76.

Sub-paragraph 11B-27.002(3)(a)15, F.A.C.: Revises the Affidavit of Separation, form CJSTC-61, and removes the possible negative stigma associated with a person being "terminated" when this reason is typically used for a separation beyond the officer's control such as the dissolution of the agency.

Paragraph 11B-27.00212(14)(e) , F.A.C.: Updates the name of the Injury or Illness Exemption for the Firearms Law Enforcement Officer Qualification Standard, form CJSTC-86B, and specifies that only the last four digits of the applicant's social security number are required for completion of the form.

Paragraph 11B-27.00212(15)(c) , F.A.C.: Updates the list of programs that law enforcement officers may complete to satisfy the Elder Abuse Training requirement and renumbers Rule 11B-27.00212(15)(c)1.-10., F.A.C., because sub-paragraphs # 1, 3, and 5 were removed.

Sub-paragraph 11B-27.00212(15)(c)1. , F.A.C.: Deletes the retired CMS Application-Based Law Enforcement Basic Recruit Training Program (BRTP) number 224.

Sub-paragraph 11B-27.00212(15)(c)3., F.A.C.: Deletes the retired Traditional Correctional Cross-Over to CMS Application-Based Law Enforcement BRTP number 1143.

Sub-paragraph 11B-27.00212(15)(c)4. , F.A.C.: Updates the status of the Correctional Officer Cross-Over Training to Florida CMS Law Enforcement BRTP number 1191 because the program was retired on 6/30/14.

Sub-paragraph 11B-27.00212(15)(c)5. , F.A.C.: Deletes the retired Traditional Correctional Probation Cross-Over to CMS Application-Based Law Enforcement BRTP number 1157.

Sub-paragraph 11B-27.00212(15)(c)6. , F.A.C.: Updates the status of the Correctional Probation Officer Cross-Over Training to Florida CMS Law Enforcement BRTP number 1179 because the program was retired on 6/30/14.

Paragraph 11B-27.00213(2)(b) , F.A.C.: Revises the CMS Firearms Performance Evaluation, form CJSTC-4 CMS, to include local agencies; adds the Safe Handling of Firearms Course to the list of courses required to maintain the instructor to student ratio; adds a line for the rangemaster's printed name; clarifies language on the proficiency check lists; and revises language to clarify scoring criteria.

Paragraphs 11B-27.004(8)-(14) , F.A.C.: Deletes subsection 11B-27.004(8), F.A.C., and renumbers subsections Paragraphs 11B-27.004(9)-(14) , F.A.C. because Commission staff will no longer issue a Letter of Acknowledgment to respondents who have been terminated by an employing agency.

Paragraph 11B-27.004(9)(e) , F.A.C.: Deletes the previous subsection 11B-27.004(9)(e), F.A.C., due to the removal of subsection 11B-27.004(8), F.A.C., reference Commission staff issuing a Letter of Acknowledgment to respondents who have been terminated by the employing agency.

Sub-paragraph 11B-27.005(5)(a)18. , F.A.C.: Adds the felony charge of Video Voyeurism to the list of enumerated penalty guidelines.

Sub-paragraph 11B-27.005(b)4. , F.A.C.: Adds language to specify the charge of Falsification of a Use of Force Report is included in the enumerated penalty guidelines for misdemeanors involving false reports and statements.

Sub-paragraph 11B-27.005(b)8. , F.A.C.: Removes the misdemeanor charge of Video Voyeurism (810.145, F.S.) from the list of enumerated penalty guidelines misdemeanor as a result of a 2012 statutory change.

Sub-paragraph 11B-27.005(5)(c)2. , F.A.C.: Changes the recommended penalty range for the violation of sexual harassment involving physical contact or misuse of position to “probation with training to suspension with training.”

Paragraph 11B-27.013(2)(e), F.A.C. Incorporates the revised Canine Team Certification Application, form CJSTC-70.

Sub-paragraph 11B-27.013(3)(b)2. , F.A.C.: Revises the Canine Course Equivalency Checklist, form CJSTC-70A, to include the canine handler’s name as well as the canine’s name.

Sub-paragraph 11B-27.013(7)(a)2. , F.A.C.: Updates the certification requirements for canine team evaluator applicants.

SUMMARY: Implementation of penalties for lack of good moral character; certification, employment, appointment, reactivation, or termination of officers; Temporary Employment Authorization; Probable Cause Determination; disciplinary guidelines and range of penalties; and requirements for canine team certification.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department’s economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 943.03(4), 943.12(1), 943.1395 FS.

LAW IMPLEMENTED: 119.071, 943.12, 943.12(3), (16), 943.13, 943.13(7), (11), 943.131, 943.133, 943.135, 943.139, 943.1395, 943.1395(3), (7), (8), 943.17(1)(a), 943.1701, 943.1715, 943.1716, 943.253 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Wednesday, June 29, 2016, 10:00 a.m.

PLACE: Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Joyce Gainous-Harris at (850)410-8615, or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joyce Gainous-Harris at (850)410-8615, or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308

NAME OF PERSON ORIGINATING PROPOSED RULE: Bureau Chief Glen Hopkins

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 02, 2016

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 30, 2015



THE FULL TEXT OF THE PROPOSED RULE IS:

11B-27.0011 Moral Character.

(1) through (3) No change.

(4) For the purposes of the Criminal Justice Standards and Training Commission's implementation of any of the penalties specified in Section 943.1395(6) or (7), F.S., a certified officer's failure to maintain good moral character required by Section 943.13(7), F.S., is defined as:

(a) No change.

(b) Except as otherwise provided in Section 943.13(4), F.S., a plea of guilty or a verdict of guilty after a criminal trial for any of the following misdemeanor or criminal offenses, notwithstanding any suspension of sentence or withholding of adjudication, or the perpetration by an officer of an act that would constitute any of the following misdemeanor or criminal offenses whether criminally prosecuted or not:

1. Sections 316.193, 327.35, 365.16(1)(c),(d), 414.39, 741.31, 784.011, 784.03, 784.047, 784.048, 784.05, 784.046(15), 790.01, 790.10, 790.15, 790.27, 794.027, 796.07, 800.02, 800.03, 806.101, 806.13, 810.08, 810.14, ~~810.145~~, 812.014, 812.015, 812.14, 817.235, 817.49, 817.563, 817.565, 817.61, 817.64, 827.04, 828.12, 831.30, 831.31(1)(b), 832.05, 837.012, 837.05, 837.055, 837.06, 839.13, 839.20, 843.02, 843.03, 843.06, 843.085, 847.011, 856.021, 870.01, 893.13, 893.147, 901.36 914.22, 934.03, 944.35, 944.37, and 944.39, F.S.

2. through 3. No change.

(c) through (d) No change.

(5) A certified officer's failure to maintain good moral character as defined in subsection (4) of this rule section by committing a violation involving perjury or false statement in a court proceeding, shall not include a statement which was recanted. If the violation involving perjury or false statement is alleged to have occurred in the performance of regularly required work duties or the course of an administrative or disciplinary investigation, a certified officer's failure to maintain good moral character as defined in subsection (4) of this rule section shall not include a statement in which the officer making the statement conceded such statement to be false prior to the employing agency's conclusion of the internal affairs investigation in which the false statement related to a material fact or within 10 calendar days of making the false statement, whichever occurs first. For purposes of this subsection, the employing agency's internal affairs investigation shall be deemed to be at a conclusion upon the investigator's execution of the statement required by Section 112.533(1)(a)2., F.S.

(6) through (7) No change.

Rulemaking Authority 943.03(4), 943.12(1) FS. Law Implemented 943.13(7), 943.1395(7) FS. History—New 1-7-85, Formerly 11B-27.011, Amended 7-13-87, 10-25-88, 12-13-92, 9-5-93, 1-19-94, 8-7-94, 11-5-95, 1-2-97, 7-7-99, 8-22-00, 11-5-02, 4-11-04, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 4-16-09, 6-3-10, 5-21-12, 3-13-13, 5-29-14, 7-29-15, \_.

11B-27.002 Certification, Employment or Appointment, Reactivation, and Terminating Employment or Appointment of Officers.

(1) through (2) No change.

(3) Employment requirements pursuant to Sections 943.13, F.S., shall be documented on an Agency New Hire Report, form CJSTC-207, revised November 8, 2007, hereby incorporated by reference. Form CJSTC-207 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615.

(a) The files of newly hired officers are subject to an on-site inspection by Commission staff to ensure compliance with the requirements of Chapter 943, F.S., and Rule Chapter 11B-27, F.A.C. All documents collected in conjunction with the background investigation shall be available for review. The following documents shall be reviewed for completeness:

1. through 3. No change.

4. A Temporary Employment Authorization Statement, form CJSTC-65, revised November 5, 2015 ~~November 8, 2007~~, effective 9/2016, hereby incorporated by reference. Form CJSTC-65 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615.

5. through 10. No change.

11. An Exemption-From-Training, form CJSTC-76, revised November 5, 2015 ~~November 6, 2014~~, effective 9/2016 ~~7/2015~~, hereby incorporated by reference, and an Exemption-From-Training Proficiency Demonstration, form CJSTC-76A, revised November 6, 2014, effective 7/2015, hereby incorporated by reference, for previous Florida and out-of-state, federal, or military officers, if the officer used this training option. Forms CJSTC-76 and CJSTC-76A can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615.

12. through 14. No change.

15. An Affidavit of Separation, form CJSTC-61, revised November 5, 2015 ~~December 16, 2010~~, effective 9/2016 ~~(effective 5/2012)~~, hereby incorporated by reference, and Affidavit of Separation Supplement, form CJSTC-61A, revised December 16, 2010, (effective 5/2012), hereby incorporated by reference, if the officer has separated employment with the agency. Forms CJSTC-61 and CJSTC-61A can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

(b) No change.

(4) through (6) No change.

Rulemaking Authority 943.03(4), 943.12(1) FS. Law Implemented 119.071, 943.12(3), 943.13, 943.133, 943.139, 943.1395 FS. History–New 10-6-82, Amended 4-26-84, 1-7-85, Formerly 11B-27.02, Amended 9-3-87, 3-29-89, 5-14-92, 12-13-92, 9-5-93, 1-19-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 6-3-10, 5-21-12, 3-13-13, 5-29-14, 7-29-15,\_\_\_\_\_.

11B-27.00212 Maintenance of Officer Certification.

(1) through (13) No change.

(14) Law Enforcement Officer Firearms Qualification Standard. Beginning July 1, 2006, a law enforcement officer shall be required to qualify on the Commission's approved course of fire with the proficiency skills documented on the Law Enforcement Officer Firearms Qualification Standard, form CJSTC-86A, revised December 16, 2010, (effective 3/2013), hereby incorporated by reference, and maintained in the officer's employment file. Form CJSTC-86A can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

(a) through (d) No change.

(e) In the event a law enforcement officer is injured in the line of duty or has a chronic illness and fails to meet this standard by June 30 of a reporting year, the agency administrator or designee shall complete the Injury or Illness Exemption for the Firearms Law Enforcement Officer Qualification Standard form CJSTC-86B, revised November 5, 2015, effective 9/2016 ~~created January 29, 2009~~, hereby incorporated by reference ~~and revised December 16, 2010, (effective 5/2012)~~. Form CJSTC-86B can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615. The agency shall submit form CJSTC-86B and the supporting medical documentation to Commission staff prior to the June 30 deadline to ensure the officer's certificate does not become inactive on the reporting deadline for that two-year reporting cycle. An additional form CJSTC-86B shall be submitted for each subsequent reporting cycle.

(15) Elder Abuse Training. As a part of basic recruit training or the officer's continuing education or training, a law enforcement officer shall be required to complete training on identifying and investigating elder abuse and neglect.

(a) through (b) No change.

(c) Law enforcement officers who have successfully completed one of the following programs will have satisfied this training requirement:

~~1. CMS Application Based Law Enforcement Basic Recruit Training Program (BRTP) number 224 (Retired 3/31/08).~~

~~1.2.~~ Florida CMS Law Enforcement BRTP number 1177 (Effective 4/1/08).

~~3. Traditional Correctional Cross Over to CMS Application Based Law Enforcement BRTP number 1143 (Retired 3/31/08).~~

~~2.4.~~ Correctional Officer Cross-Over Training to Florida CMS Law Enforcement BRTP number 1178 (Retired 6/30/12). Correctional Officer Cross-Over Training to Florida CMS Law Enforcement BRTP number 1191 (Retired 6/30/14). (~~Effective 7/1/12~~)

~~5. Traditional Correctional Probation Cross Over to CMS Application Based Law Enforcement BRTP number 1157 (Retired 3/31/08).~~

~~3.6.~~ Correctional Probation Officer Cross-Over Training to Florida CMS Law Enforcement BRTP number 1179 (Retired 6/30/14) (~~Effective 7/1/12~~).

~~4.7.~~ CMS Law Enforcement Auxiliary Officer BRTP number 1180 (Effective 4/1/08).

~~5.8.~~ Crimes Against the Elderly advanced training course number 100 (Effective 4/1/06).

~~6.9.~~ Elder Abuse Training for Law Enforcement course by the Department of Elder Affairs (Effective 10/30/08).

~~7.10.~~ Elder Abuse Investigations specialized training program course number 1185. There are no required minimum training hours for mandatory retraining, however, training schools are permitted to teach the course as a specialized training program course requiring a minimum of four contact hours.

(d) through (e) No change.

Rulemaking Authority 943.03(4), 943.12(1) FS. Law Implemented 119.071, 943.12, 943.13(11), 943.135, 943.1395(3), 943.1701, 943.1715, 943.1716, 943.253 FS. History–New, 11-5-02. Amended 12-3-03, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 4-16-09, 9-28-09, 6-3-10, 5-21-12, 3-13-13, \_\_\_\_\_. Editorial Note: See 11B-27.0023, F.A.C.

11B-27.00213 Temporary Employment Authorization. A Certificate of Compliance shall not be issued to officers employed on a Temporary Employment Authorization (TEA) prior to meeting the requirements of Sections 943.13(1)-(10), F.S.

(1) No change.

(2) An officer employed on a TEA, shall be excused from the firearms training requirement upon placement of a statement in the officer's file at the employing agency. The statement shall be signed by the agency administrator confirming that the TEA-appointed officer shall not be permitted to carry a firearm until the following classroom training requirements have been fulfilled:

(a) No change.

(b) Firearms Range Training. The trainee's proficiency demonstration shall be documented on a CMS Firearms Performance Evaluation, form CJSTC-4 CMS, revised November 5, 2015 ~~December 16, 2010~~, effective 9/2016 (~~effective 3/2013~~), hereby incorporated by reference, and maintained in the trainee's file at the employing agency. Form CJSTC-4 CMS can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615. The instructor shall qualify the trainee with a handgun (revolver or semi-automatic pistol) and long gun (shotgun or semiautomatic rifle/carbine) using the Commission's Basic Recruit Training Firearms Course of Fire, pursuant to form CJSTC-4 CMS, and the form shall be maintained in the trainee's file at the employing agency. Trainees shall fire a long gun as prescribed in the Commission-approved Basic Recruit Training Program.

(3) through (5) No change.

Rulemaking Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(3), 943.13, 943.131, 943.133, 943.139, 943.1395, 943.17(1)(a) FS. History–New, 11-5-02. Amended 11-30-04, 3-27-06, 6-9-08, 9-28-09, 6-3-10, 5-21-12, 3-13-13, \_\_\_\_\_.

11B-27.004 Probable Cause Determination. At the conclusion of the preliminary investigation and when the reports and documents are received as directed by Sections 943.139 and 943.1395, F.S., a determination of probable cause shall be made before the Commission initiates proceedings to take disciplinary action against the certification of an officer.

(1) through (7) No change.

~~(8)~~ When Commission staff determines that the respondent has been terminated by the employing agency, Commission staff shall issue a Letter of Acknowledgment of agency action in these cases, provided the penalty guidelines of subsection 11B-27.005(5), F.A.C., specify probation or suspension as a penalty for the offense.

~~(8)~~(9) Commission staff:

(a) through (d) No change.

~~(e)~~ Shall not issue a Letter of Acknowledgment to a respondent if the penalty guidelines of subsection 11B-27.005(5), F.A.C., specify suspension to revocation and the respondent was terminated from the employing agency.

~~(9)~~(10) In cases where the respondent has been terminated or disciplined and is seeking review of that termination or discipline through the administrative or judicial process, the respondent and employing agency shall notify Commission staff of such review. Pending final resolution, Commission staff shall hold such cases in abeyance.

~~(10)~~(11)(a) If administrative or judicial review results in a final disposition of the respondent's termination or discipline, the case shall no longer be held in abeyance and Commission staff shall review the case for the issuance of a Letter of Acknowledgment, if applicable, or for presentation to the Commission for Commission action.

(b) No change.

~~(11)~~(12)(a) In cases in which the facts presented to Commission staff are inconclusive, lack reliability, are insufficient to permit a reasonable determination of what occurred, or fail to demonstrate that the alleged misconduct meets the statutory criteria for Commission action, Commission staff shall "no cause" the case. Commission staff shall reopen a case that has been "no caused" if new evidence or witnesses become available to Commission staff. However, Commission staff shall "no cause" a violation of paragraph 11B-27.0011(4)(b) or (c), F.A.C., if the officer is alleged to have committed the violation more than eight years prior to the case being presented at a Probable Cause Determination Hearing.

(b) No change.

~~(12)~~(13) Commission staff shall submit annually to the Commission, a listing of those agencies that fail to impose significant agency disciplinary action pursuant to subsections 11B-27.005(1)-(2), F.A.C.

~~(13)~~(14) When the Probable Cause Panel has insufficient information to determine the existence of probable cause, but in good faith believes that Commission staff can obtain the information necessary to reach a decision, the panel shall enter a finding of "Insufficient Information." The case shall be continued until reasonable efforts by Commission staff have been concluded to obtain the additional information requested by the panel, at which time the case shall be scheduled before a Probable Cause Panel for further review.

Rulemaking Authority 943.03(4), 943.12(1), 943.1395 FS. Law Implemented 943.1395 FS. History--New 12-13-92, Amended 1-19-94, 11-5-95, 1-2-97, 7-7-99, 8-22-00, 11-5-02, 4-11-04, 11-30-04, 6-9-08, 6-3-10, 5-29-14.

11B-27.005 Revocation or Disciplinary Actions; Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) through (4) No change.

(5) When the Commission finds that a certified officer has committed an act that violates Section 943.13(7), F.S., the Commission shall issue a final order imposing penalties within the ranges recommended in the following disciplinary guidelines:

(a) For the perpetration by the officer of an act that would constitute any felony offense, pursuant to paragraph 11B-27.0011(4)(a), F.A.C., but where there was not a violation of Section 943.13(4), F.S., the action of the Commission shall be to impose a penalty ranging from suspension of certification to revocation. Specific violations and penalties that shall be imposed, absent mitigating circumstances, include the following:

1. through 17. No change.

18.	<u>Video Voyeurism</u>	<u>Prospective suspension and probation with counseling to revocation</u>
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(b) For the perpetration by the officer of an act that would constitute any of the misdemeanor offenses, pursuant to paragraph 11B-27.0011(4)(b), F.A.C., but where there was not a violation of Section 943.13(4), F.S., the action of the Commission shall be to impose a penalty ranging from probation of certification to suspension of certification. Specific violations and penalties that shall be imposed, absent aggravating or mitigating circumstances, include the following:

1. through 3. No change.

4.	False reports and statements (817.49, 837.012, 837.05(1), 837.055, 837.06, 901.36, 944.35(4)(b), F.S.).	Prospective suspension to revocation
----	---	--------------------------------------

5. through 7. No change.

8.	Prostitution or lewdness; voyeurism, <del>video voyeurism</del> (796.07, 810.14, <del>810.145</del> , F.S.)	Prospective suspension, and probation with counseling to revocation
----	--	---

9. through 15. No change.

(c) For the perpetration by the officer of an act or conduct, as described in paragraph 11B-27.0011(4)(c), F.A.C., if such act or conduct does not constitute a crime described in paragraphs (5)(a)-(b) of this rule section, the action of the Commission shall be to impose the following penalties, absent aggravating or mitigating circumstances:

1. No change.

2.	Sexual harassment involving physical contact or misuse of position	Probation with training to suspension <u>with training.</u>
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3. through 15. No change.

(d) No change.

(6) through (10) No change.

Rulemaking Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(3), 943.1395(8) FS. History--New 10-6-82, Amended 1-7-85, Formerly 11B-27.05, Amended 3-29-89, 12-13-92, 2-17-93, 1-19-94, 8-7-94, 11-5-95, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 4-11-04, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 6-3-10, 5-21-12, 5-29-14, \_\_\_\_\_.

11B-27.013 Canine Team Certification.

(1) No change.

(2) Canine team certification requirements. Commission certification of a canine team is not required. If a canine team seeks Commission certification, the canine team shall meet the following requirements:

(a) through (d) No change.

(e) A canine team shall provide documentation of the canine team's compliance with certification requirements and submit a Canine Team Certification Application, form CJSTC-70, revised November 5, 2015, effective 9/2016 ~~November 6, 2014~~, hereby incorporated by reference. Form CJSTC-70 can be obtained at the following FDLE Internet address: <http://www.fldle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

(3) Required documentation for certification of a canine team. Documentation of compliance for Commission certification of canine teams shall include:

(a) No change.

(b) Documentation of successful completion of canine team training shall include the following:

1. No change.

2. Successful completion of the equivalent training shall be documented on the Canine Course Equivalency Checklist form CJSTC-70A, revised November 5, 2015 ~~November 6, 2014~~, effective 9/2016, hereby incorporated by reference. Form CJSTC-70A can be obtained at the following FDLE Internet address: <http://www.fldle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

a. through b. No change.

3. The employing agency submitting form CJSTC-70 shall provide documentation of training to the Commission-approved evaluator. The evaluator shall review and document of the training on form CJSTC-70A.

(c) No change.

(4) through (6) No change.

(7) Canine Team Evaluators.

(a) Prior to being approved by the Commission as a canine team evaluator, the evaluator applicant shall provide documentation verifying the evaluator applicant has complied with the following requirements:

1. No change.

2. Documentation on form CJSTC-70 that the evaluator applicant has taught the Canine Team Training Course number 1198; or the Canine Team Training Course number 1112 (retired 11/6/2013); or equivalent training in its entirety to a minimum of six canine teams that have successfully completed the canine team certification process. Canine teams trained exclusively for tracking and trailing or specific detection shall not be included in this total.

3. through 5. No change.

(b) through (c) No change.

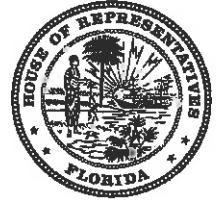
Rulemaking Authority 943.03(4), 943.12(1) FS. Law Implemented 119.071, 943.12(16) FS. History—New 3-29-89, Amended 12-13-92, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 9-28-09, 6-3-10, 3-13-13, 5-29-14, 5-29-14, 7-29-15, \_\_\_\_\_.

ANDY GARDINER  
President



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Representative W. Travis Cummings, Vice Chair  
Senator Aaron Bean  
Senator Dwight Bullard  
Senator Nancy C. Detert  
Senator Geraldine F. "Geri" Thompson  
Representative Matt Hudson  
Representative Lake Ray  
Representative Hazelle P. "Hazel" Rogers  
Representative Barbara Watson

STEVE CRISAFULLI  
Speaker



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THE FLORIDA LEGISLATURE  
JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE

June 23, 2016

Ms. Joyce Gainous Harris  
Government Operations Consultant  
Florida Department of Law Enforcement  
2331 Phillips Road  
Tallahassee, Florida 32308

**RE: Department of Law Enforcement  
Rules 11B-30.006 and .012**

Dear Ms. Gainous-Harris:

After reviewing the above-referenced rules, I offer the following comments for your consideration and written response:

**Passim** The rules state that various forms may be obtained at the URL:<http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Programs-Forms.aspx>. However, when the URL is entered, it results in the message "Service Unavailable HTTP Error 503." Please revise the appropriate rule text with a working hyperlink.

**11B-30.006** Please explain how the rule implements section 119.71, F.S.

**11B-30.012** Please see the comment for rule 11B-30.006.

Should you have any questions, please do not hesitate to contact me. Otherwise, I look forward to your written response.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sharon Jones".

Sharon Jones  
Senior Attorney

RECEIVED

JUN 28 2016

Criminal Justice  
Professionalism Program



Florida Department of  
Law Enforcement

Richard L. Swearingen  
*Commissioner*

**Office of General Counsel**  
Post Office Box 1489  
Tallahassee, Florida 32302-1489  
(850) 410-7676  
[www.fdle.state.fl.us](http://www.fdle.state.fl.us)

Rick Scott, *Governor*  
Pam Bondi, *Attorney General*  
Jeff Atwater, *Chief Financial Officer*  
Adam Putnam, *Commissioner of Agriculture*

July 5, 2016

Sharon Jones, Senior Attorney  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, FL 32399-1400

RE: Department of Law Enforcement  
Criminal Justice Standards and Training Commission  
Rules 11B-30.006 and .012

Dear Ms. Jones:

I am writing in response to your letter dated June 23, 2016, regarding the JAPC -review and findings of the proposed rule revisions to Rule Chapter 11B-30, F.A.C., FDLE provides the following:

**JAPC Comment:**

**Passim** The rules state that various forms may be obtained at the URL:<http://www.fdle.state.fl.us/Content/CJSTIPublicationsIProfessionalism-Programs-Forms.aspx>. However, when the URL is entered, it results in the message "Service Unavailable HTTP Error 503." Please revise the appropriate rule text with a working hyperlink.

**FDLE Response:** As a result of a recent FDLE computer system upgrade, the hyperlink is no longer active. FDLE is in the process of providing a working hyperlink on its website to access Form CJSTC-311. FDLE requests that the proposed rule change be considered a technical revision after promulgation of the proposed rules. If that is not satisfactory to you, then FDLE will revise the link in the next rule promulgation package, which should begin in October or November of 2016.

**11B-30.006:** Please explain how the rule implements section 119.[0]71, F.S.

**FDLE Response:** In May of 2015, a JAPC attorney required that FDLE include section 119.071, F.S., as Law Implemented in certain rules that pertain to social security numbers or the use of the last 4 numbers of a social number.

FDLE will make the revision in a technical memo to the Bureau of Administrative Code upon filing the rules for adoption. If that is not satisfactory to you, then FDLE will revise the statutes in the next rule promulgation package, which should begin in October or November of 2016.



**11B-30.012:** Please see the comment for rule 11B-30.006.

**FDLE Response:** Please see response for rule 11B-30.006.

If you have any additional questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Fern Rosenwasser", with a long horizontal flourish extending to the right.

Fern Rosenwasser  
Assistant General Counsel

STATE OF FLORIDA  
DEPARTMENT OF LAW ENFORCEMENT  
CHAPTER 11B-30 FLORIDA ADMINISTRATIVE CODE  
AMENDING RULE 11B-30.006 AND RULE 11B-30.012

SUMMARY OF THE RULE

Revises the Training Report, form CJSTC-67; revises the Exemption-From-Training, form CJSTC-76; includes a time limit for the SOCE post-examination review; and includes an exception to permit individuals to bring materials to the SOCE post-examination review.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

11B-30.006(1): Incorporates the revised Training Report, form CJSTC-67, to specify that only the applicant's last four digits are required for completion of the form, and this information may be requested, pursuant to 119.071, F.S.

11B-30.006(2)(b): Incorporates the revised Exemption-From-Training, form CJSTC-76, to specify that only the last four digits of the applicant's social security number are required for completion of the form, and this information may be requested, pursuant to 119.071, F.S.

11B-30.012(1): Adds language to specify the SOCE post-examination review time limit based upon testing industry standards.

11B-30.012(4): Adds specific language to allow individuals to bring a copy of the relevant official curriculum as a reference during the SOCE post-examination review session.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND  
LEGISLATIVE RATIFICATION

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment.

#### FEDERAL COMPARISON STATEMENT

There are no federal requirements dealing with this topic.

#### SUMMARY OF HEARING

FDLE received no requests for a public hearing and no written comments were submitted.

## Notice of Proposed Rule

### **DEPARTMENT OF LAW ENFORCEMENT**

#### **Criminal Justice Standards and Training Commission**

##### **RULE NOS.:RULE TITLES:**

11B-30.006 State Officer Certification Examination General Eligibility Requirements

11B-30.012 Post Examination Review of Missed Questions, Answers, and Grading Key

**PURPOSE AND EFFECT:** Subsection 11B-30.006(1), F.A.C.: Incorporates the revised Training Report, form CJSTC-67, to specify that only the applicant's last four digits are required for completion of the form.

Paragraph 11B-30.006(2)(b), F.A.C.: Incorporates the revised Exemption-From-Training, form CJSTC-76.

Subsections 11B-30.012(1), (4), F.A.C.: Includes a time limit for the SOCE post-examination review and includes an exception to permit individuals to bring materials to the SOCE post-examination review.

**SUMMARY:** Revised Training Report, form CJSTC-67; revised Exemption-From-Training, form CJSTC-76; and post-examination review of the State Officer Certification Examination (SOCE).

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:** The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department's economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**RULEMAKING AUTHORITY:** 943.03(4), 943.12(1) FS.

**LAW IMPLEMENTED:** 943.12(17), 943.131(2), 943.1397 FS.

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):**

**DATE AND TIME:** Wednesday, June 29, 2016, 10:00 a.m.

**PLACE:** Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Joyce Gainous-Harris at (850)410-8615, or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Joyce Gainous-Harris at (850)410-8615, or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Bureau Chief Glen Hopkins

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** Governor and Cabinet

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** August 2, 2016

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR:** October 30, 2015

THE FULL TEXT OF THE PROPOSED RULE IS:

11B-30.006 State Officer Certification Examination General Eligibility Requirements.

(1) For the purposes of this rule chapter, the terms “successfully completed” and “successfully complete” are defined as being denoted with a “Pass,” pursuant to subsection 11B-35.001(8), F.A.C., on the completed Training Report, form CJSTC-67, revised November 5, 2015 ~~November 6, 2014~~, effective 9/2016 ~~7/2015~~, hereby incorporated by reference. Form CJSTC-67 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

(2) The following individuals are eligible to take the State Officer Certification Examination (SOCE) for the requested criminal justice discipline:

(a) No change.

(b) Inactive Florida law enforcement, correctional, and correctional probation officers, defined in Section 943.1395(3), F.S., who comply with paragraph 11B-27.00212(12)(a), F.A.C., and Rule 11B-35.009, F.A.C., shall pass the SOCE within one year of notification of approval of the Exemption-From-Training, form CJSTC-76, revised November 5, 2015, ~~November 6, 2014~~, effective 9/2016 ~~7/2015~~, incorporated by reference. Form CJSTC-76 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

(c) No change.

Rulemaking Authority 943.03(4), 943.12(1) FS. Law Implemented 119.071, 943.12(17), 943.131(2), 943.1397 FS. History—New 1-10-94, Amended 8-7-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 6-3-10, 5-21-12, 5-29-14, 7-29-15,\_\_\_\_\_.

11B-30.012 Post Examination Review of Missed Questions, Answers, and Grading Key.

(1) Individuals who have failed the State Officer Certification Examination (SOCE) shall have the right to review their missed examination questions and corresponding grading key at a post-examination review. The post-examination review shall be scheduled and conducted by Commission staff or their authorized agent. The post-examination review shall be limited to one-half the time regularly allowed for the corresponding SOCE. Individuals reviewing a computer-based SOCE shall schedule their review via the Commission’s test administration vendor. Individuals reviewing a paper-and-pencil SOCE shall schedule their review by submitting a State Officer Certification Examination Grade Review Request, form CJSTC-510, revised November 8, 2007, hereby incorporated by reference, and shall be received by the Florida Department of Law Enforcement by the established deadline date for the Examination Review Session requested. Form CJSTC-510 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

(2) through (3) No change.

(4) Individuals shall be prohibited from bringing materials into or removing materials from a post-examination review session, except that individuals shall be permitted to bring one copy of the official curriculum corresponding to the examination reviewed.

(5) through (6) No change.

Rulemaking Authority 943.03(4), 943.12(1), (17) FS. Law Implemented 943.12(17), 943.173 FS. History—New 1-10-94, Amended 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 5-21-12, 5-29-14, 7-29-15,\_\_\_.

ANDY GARDINER  
President



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THE FLORIDA LEGISLATURE  
JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE

June 24, 2016

Ms. Joyce Gainous Harris  
Government Operations Consultant  
Florida Department of Law Enforcement  
2331 Phillips Road  
Tallahassee, Florida 32308

**RE: Department of Law Enforcement  
Rules 11B-35.001, .002, .0011, .0021, .0024, .003, .006, .007 and .009**

Dear Ms. Gainous-Harris:

After reviewing the above-referenced rules, I offer the following comments for your consideration and written response:

- Notice** In both the notice of rule development and the notice of proposed rule, rule 11B-35.0011 was omitted from the "RULE NO.: RULE TITLE" section but included in the rule text. Please publish a notice of correction that explains what occurred and references both the notice of rule development and the notice of proposed rule.
- Passim** The rules state that various forms may be obtained at the URL:<http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Programs-Forms.aspx>. However, when the URL is entered, it results in the message "Service Unavailable HTTP Error 503." Please revise the appropriate rule text with a working hyperlink.
- 11B-35.001** Please explain how the rule implements section 119.71, F.S.
- 11B-35.0024(4)(k)** The proposed rule text refers to form CJSTC-83 as "Canine Performance Evaluation" while the form itself is entitled "Canine Team Performance Evaluation." Please revise the title so that the form and the rule text are in accord.

RECEIVED

JUN 28 2016

Criminal Justice  
Professionalism Program

Ms. Joyce Gainous Harris

June 24, 2016

Page 2

**11B-35.0024**            Please see the comment for rule 11B-35.001.

**11B-35.009**            Please see the comment for rule 11B-35.001.

Should you have any questions, please do not hesitate to contact me. Otherwise, I look forward to your written response.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Sharon Jones', with a long horizontal flourish extending to the right.

Sharon Jones  
Senior Attorney



Florida Department of  
Law Enforcement

Richard L. Swearingen  
*Commissioner*

**Office of General Counsel**  
Post Office Box 1489  
Tallahassee, Florida 32302-1489  
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Rick Scott, *Governor*  
Pam Bondi, *Attorney General*  
Jeff Atwater, *Chief Financial Officer*  
Adam Putnam, *Commissioner of Agriculture*

July 5, 2016

Sharon Jones, Senior Attorney  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, FL 32399-1400

RE: Department of Law Enforcement  
Criminal Justice Standards and Training Commission  
Rules 11B-35.001, .002, .0011, .0021, .0024, .003, .006, .007 and .009

Dear Ms. Jones:

I am writing in response to your letter dated June 24, 2016, regarding the JAPC -review and findings of the proposed rule revisions to Rule Chapter 11B-35, F.A.C., FDLE provides the following:

**JAPC Comment:**

**Notice:** In both the notice of rule development and the notice of proposed rule, rule 11B-35.0011 was omitted from the "RULE NO.: RULE TITLE" section but included in the rule text. Please publish a notice of correction that explains what occurred and references both the notice of rule development and the notice of proposed rule.

**FDLE Response:** It appears that there was an issue with the BAC side of FDLE's electronic upload for the Notices. Please see attached BAC invoice and copy of BAC's received Notice of Proposed Rule from FDLE that confirms that FDLE did include rule 11B-35.0011 in its filing regarding Rule No.: Rule Title. BAC was advised and replied that his webmaster could include the missing Rule No. and Rule Title in the current Notice of Proposed Rulemaking. He also states that the amended language is a technical change rather than a substantive change. If necessary, FDLE will file a Notice of Correction. Please confirm that such notice will not toll FDLE's rule promulgation dates.

**Passim:** The rules state that various forms may be obtained at the URL:<http://www.fdle.state.fl.us/Content/CJSTIPublications/Professionalism-Programs-Forms.aspx>. However, when the URL is entered, it results in the message "Service Unavailable HTTP Error 503." Please revise the appropriate rule text with a working hyperlink.

**FDLE Response:** As a result of a recent FDLE computer system upgrade, the hyperlink is no longer active. FDLE is in the process of providing a working hyperlink on its website to access Form CJSTC-311. FDLE requests that the proposed rule change be considered a technical revision after promulgation of the proposed rules. If that is not satisfactory to you, then FDLE



will revise the link in the next rule promulgation package, which should begin in October or November of 2016.

**11B-35.001:** Please explain how the rule implements section 119.[0]71, F.S.

**FDLE Response:** In May of 2015, a JAPC attorney required that FDLE include section 119.071, F.S., as Law Implemented in certain rules that pertain to social security numbers or the use of the last 4 numbers of a social number.

FDLE will make the revision in a technical memo to the Bureau of Administrative Code upon filing the rules for adoption. If that is not satisfactory to you, then FDLE will revise the statutes in the next rule promulgation package, which should begin in October or November of 2016.

**11B-35.0024(4)(k)** The proposed rule text refers to form CJSTC-83 as "Canine Performance Evaluation" while the form itself is entitled "Canine Team Performance Evaluation." Please revise the title so that the form and the rule text are in accord.

**FDLE Response:** The proposed rule text will be revised to reflect "Canine Team Performance Evaluation" rather than of "Canine Performance Evaluation" FDLE will make the revision in a technical memo to the Bureau of Administrative Code upon filing the rules for adoption. If that is not satisfactory to you, then FDLE will revise the statutes in the next rule promulgation package, which should begin in October or November of 2016. .

**11B-35.0024:** Please see the comment for rule 11B-35.001.


**FDLE Response:** Please see response for rule 11B-35.001.

**11B-35.009:** Please see the comment for rule 11B-35.001.

**FDLE Response:** Please see response for rule 11B-35.001.

If you have any additional questions or concerns, please do not hesitate to contact me.

Sincerely,



Fern Rosenwasser  
Assistant General Counsel

STATE OF FLORIDA  
DEPARTMENT OF LAW ENFORCEMENT  
CHAPTER 11B-35 FLORIDA ADMINISTRATIVE CODE  
AMENDING RULE 11B-35.001 AND RULE 11B-30.012

SUMMARY OF THE RULE

Updates the rule reference and removes the specific subparagraphs because of the paragraph renumbering of Rule 11B-35.001(8)(d), F.A.C.; updates the list of Specialized Training Program Courses that require an end-of-course examination based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014; changes the implementation date of the new Correctional Probation Basic Recruit Training Program; the revised Training Report, form CJSTC-67; removes the Traditional Correctional Basic Recruit Training Program because the program has been retired for more than four years; revises the Physical Fitness Assessment, form CJSTC-75B; removes the reference to a specific rule subsection and replaces it with the FDLE mailing address; removes “Updated (U)” from the column header and revises the paragraph numbering of Rule 11B-35.002(1)(a)1.-15., F.A.C.; deletes the retired Traditional Law Enforcement BRTP number 002 and CMS Application-Based Law Enforcement BRTP number 224 from the list of Basic Recruit Training Programs; deletes the retired Traditional Correctional Cross-Over Training to Traditional Law Enforcement BRTP number 222 and Traditional Correctional Cross-Over Training to CMS Application-Based Law Enforcement BRTP number 1143; deletes the retired Traditional Correctional Probation Cross-Over Training to Traditional Law Enforcement BRTP number 223 and Traditional Correctional Probation Cross-Over Training to CMS Application-Based Law

Enforcement BRTP number 1157; deletes the updated (U) date from the Correctional Probation Officer Cross-Over Training to Florida CMS Law Enforcement BRTP number 1179; deletes the retired Law Enforcement Auxiliary Officer BRTP number 211; removes “Updated (U)” from the column header and revises the paragraph numbering of Rule 11B-35.002(1)(b)2.-11., F.A.C.; deletes the retired Traditional Law Enforcement Cross-Over Training to Traditional Correctional BRTP number 555, Traditional Correctional Probation Cross-Over Training to Traditional Correctional BRTP number 556, and CMS Application-Based Law Enforcement Cross-Over Training to Traditional Correctional BRTP number 1155; updates the sub-paragraph reference in Rule 11B-35.003(8), F.A.C., and changes it from (g) to (h); removes “Updated (U)” from the column header and revises the paragraph numbering of Rule 11B-35.002(1)(c)1.-8., F.A.C.; deletes the retired Traditional Correctional Probation BRTP number 602; deletes the updated (U) date from the Florida Correctional Probation BRTP number 1176; deletes the retired Traditional Correctional Cross-Over Training to Traditional Correctional Probation BRTP number 667, Traditional Law Enforcement Cross-Over Training to Traditional Correctional Probation BRTP number 660, and CMS Application-Based Law Enforcement Cross-Over Training to Traditional Correctional Probation BRTP number 1156; deletes the updated (U) date from the Correctional Officer Cross-Over Training to Florida Correctional Probation BRTP number 1183 and Law Enforcement Officer Cross-Over Training to Florida Correctional Probation BRTP number 1184; updates the rule reference; revises the sub-paragraphs in Rule 11B-35.002(5)(a)-(h), F.A.C.; deletes the retired Traditional Law Enforcement BRTP number 002 from the list of Basic Recruit Training Programs; deletes the retired Traditional Correctional Probation BRTP number 602 and CMS Application-Based Law Enforcement BRTP number 224; revises the effective date of the Florida Correctional Probation Basic Recruit Training Program number 1176, Version 2008.04,

and changes it from July 1, 2012 to April 1, 2008; revised to allow an individual who is not currently employed in a sworn position to qualify to attend a cross-over course; revised to clearly identify the four year time frame in which an applicant who completes a Basic Recruit Training Program can qualify to attend a cross-over course; revises the sub-paragraph numbering in Rule 11B-35.002(5)(d)1.-7., F.A.C., because #1. and 2. were removed; deletes the retired Traditional Correctional Cross-Over to CMS Application-Based Law Enforcement BRTP number 1143 and Traditional Correctional Probation Cross-Over CMS Application-Based Law Enforcement BRTP number 1157; deletes the retired CMS Application-Based Law Enforcement Cross-Over to Traditional Correctional BRTP number 1155 and Traditional Correctional Probation Cross-Over to Traditional Correctional BRTP number 556; and renumbers subparagraphs in Rule 11B-35.002(6)(e), F.A.C.; revises the effective date of the Correctional Officer Cross-Over Training to Florida Correctional Probation Basic Recruit Training Program number 1183, and changes it from July 1, 2012 to April 1, 2008; adds “canine” and “diving” to the list of instructor certification topics; revises the CMS Defensive Tactics Performance Evaluation, form CJSTC- 6 CMS; removes the chemical agent exposure exemption from the rule text; revises the CMS Firearms Performance Evaluation, form CJSTC-4 CMS; revises the CMS First Aid Performance Evaluation, form CJSTC-5 CMS; revises the CMS Vehicle Operations Performance Evaluation, form CJSTC-7 CMS; revises the Canine Team Performance Evaluation, form CJSTC-83; makes a grammatical change; Deletes the retired Correctional Auxiliary Officer BRTP number 501, revises the paragraph numbering, and updates the paragraph rule reference because programs were removed from Rule 11B-35.002, F.A.C., that have been retired; revises the paragraph numbering of Rule 11B-35.006(1)6.-48., F.A.C.; deletes Criminal Law, number 019, from the list of Advanced Training Program Courses and adds the course to the list of Specialized

Training Program Courses; retires and deletes Sex Crimes Investigations, number 033, from the list of Advanced Training Program Courses; deletes Organized Crime, number 054, from the list of Advanced Training Program Courses and adds the course to the list of Specialized Training Program Courses; retires and deletes Supervision of the Youthful Offender, number 058, from the list of Advanced Training Program Courses; retires and deletes Firefighting for Correctional Officers, number 072, and Community and Human Relations, number 073, from the list of Advanced Training Program Courses; retires and deletes Computers and Technology in Criminal Justice, number 080, from the list of Advanced Training Program Courses; retires and deletes Computer Crime Investigations, number 1153, and Financial Fraud Investigations, number 1154, from the list of Advanced Training Program Courses; retires and deletes Managing and Communicating with Inmates and Offenders, number 1161, from the list of Advanced Training Program Courses; Retires and deletes Inmate Manipulation, number 1164, from the list of Advanced Training Program Courses; retires and deletes Investigating Crimes Against Children, number 1187, from the list of Advanced Training Program Courses; retires and deletes Field Training Officer Course for Correctional Probation Officers, number 1188, from the list of Advanced Training Program Courses and removes the salary incentive statement (\*) associated with the course; incorporates the new 11B-35.006(1)(b)36., F.A.C., to add the Violent Crime Investigator Training Course, number 1137, to the list of Advanced Training Program Courses and removes the course from the list of Specialized Training Program Courses; revises the paragraph numbering of Rule 11B-35.007(3)(b)-(r), F.A.C.; deletes the retired CMS Instructor Techniques Course, number 1116, and CMS General Instructor Transition Course, number 803, from the list of Specialized Instructor Training Courses; deletes the retired CMS Vehicle Operations Instructor Transition Course, number 805, from the list of Specialized Instructor

Training Courses; deletes the retired CMS Firearms Instructor Transition Course, number 806, from the list of Specialized Instructor Training Courses; deletes the retired CMS Defensive Tactics Instructor Transition Course, number 807, from the list of Specialized Instructor Training Courses; deletes the retired CMS First Aid Instructor Transition Course, number 804, from the list of Specialized Instructor Training Courses; deletes the retired Laser Speed Measurement Device (LSMD) Instructor Transition Course for Radar Instructors, number 1109, from the list of Specialized Instructor Training Courses; revises the paragraph numbering of Rule 11B-35.007(4)(b)-(z), F.A.C.; retires and deletes Human Interaction Course, number 1144, from the list of Specialized Training Program Courses; retires and deletes Crimes Against Children, number 1135, from the list of Specialized Training Program Courses; retires and deletes Domestic Violence, number 1136, from the list of Specialized Training Program Courses; Deletes Violent Crime Investigator Training Course, number 1137, from the list of Specialized Training Program Courses and adds the course to the list of Advanced Training Program Courses; retires and deletes the Basic Incident Command System (ICS) Course, number 1140, Intermediate Incident Command System (ICS) Course, number 1141, and Advanced Incident Command System (ICS) Course, number 1142, from the list of Specialized Training Program Courses; retires and deletes Problem Solving Model: SECURE, number 1150, from the list of Specialized Training Program Courses; moves the Criminal Law, number 019, and Organized Crime, number 054, from the Advanced Training Program list to the Specialized Training Program Courses list; adds new Diabetic Emergencies and Officer Response, number 2009, to the list of Specialized Training Program Courses; and revises the Exemption-From-Training, form CJSTC-76.

#### FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

11B-35.001(8)(b)-(c): Updates the rule reference to remove unnecessary language in Rule 11B-35.001(8)(d) as a result of retired specialized courses.

11B-35.001(8)(d)9.-14.: Revises the paragraph numbering of Rule 11B-35.001(8)(d)9.-14., F.A.C., because of the Commission-approved needs assessment to retire and delete the following Specialized Training Program Courses: Criminal Justice Officer Ethics Course number 1134, Crimes Against Children number 1135, and Domestic Violence number 1136. Also, moves the Violent Crime Investigator Training Course number 1137 from the Specialized Training Program Course list to the Advanced Training Program list.

11B-35.001(9): Moves the projected implementation date of the new Correctional Probation Basic Recruit Training Program from July 1, 2015 to July 1, 2016.

11B-35.001(10)(a): Incorporates the revised Training Report, form CJSTC-67, to specify that only the applicant's last four digits are required for completion of the form, and this information may be requested, pursuant to 119.071, F.S.

11B-35.001(10)(b): Removes the Traditional Correctional Basic Recruit Training Program because the program has been retired for more than four years.

11B-35.001(10)(d)14.: Revises the Physical Fitness Assessment, form CJSTC-75B, to remove questions related to exemption for previous chemical agent exposure.

11B-35.001(1)(f): Includes the FDLE mailing address to which an applicant must submit violations in writing and removes the specific rule reference to eliminate frequent changes in the future.

11B-35.002(1)(a): Revises the column header to remove "Updated (U)" from the field because the Criminal Justice Professionalism (CJP) Division will no longer track course and

program updates in the rule; and revises the paragraph numbering of Rule 11B-35.002(1)(a)1.-15., F.A.C., because paragraphs #1, 2, 4, 5, 8, 9, and 11 were removed.

11B-35.002(1)(a)1.-2.: Removes the Traditional Law Enforcement BRTP number 002 and CMS Application-Based Law Enforcement BRTP number 224 from the list of Law Enforcement Basic Recruit Training Programs because the programs have been retired for more than four years.

11B-35.002(1)(a)4.-5.: Removes the Traditional Correctional Cross-Over Training to Traditional Law Enforcement BRTP number 222 and Traditional Correctional Cross-Over Training to CMS Application-Based Law Enforcement BRTP number 1143 from the list of Law Enforcement Basic Recruit Training Programs because the programs have been retired for more than four years.

11B-35.002(1)(a)8.-9.: Removes the Traditional Correctional Probation Cross-Over Training to Traditional Law Enforcement BRTP number 223 and Traditional Correctional Probation Cross-Over Training to CMS Application-Based Law Enforcement BRTP number 1157 from the list of Law Enforcement Basic Recruit Training Programs because the programs have been retired for more than four years.

11B-35.002(1)(a)10.: Removes the date the Correctional Probation Officer Cross-Over Training to Florida CMS Law Enforcement BRTP number 1179 was updated because the Criminal Justice Professionalism (CJP) Division will no longer track course and program updates in the rule.

11B-35.002(1)(a)11.: Removes the Law Enforcement Auxiliary Officer BRTP number 211 from the list of Law Enforcement Basic Recruit Training Programs because the program has been retired for more than four years.



11B-35.002(1)(b): Revises the column header to remove “Updated (U)” from the field because the Criminal Justice Professionalism (CJP) Division will no longer track course and program updates in the rule; and revises the paragraph numbering of Rule 11B-35.002(1)(b)5.-11., F.A.C., because paragraphs # 2-4 were removed.

11B-35.002(1)(b)2.-4.: Removes the Traditional Law Enforcement Cross-Over Training to Traditional Correctional BRTP number 555, Traditional Correctional Probation Cross-Over Training to Traditional Correctional BRTP number 556, and CMS Application-Based Law Enforcement Cross-Over Training to Traditional Correctional BRTP number 1155 from the list of Correctional Basic Recruit Training Programs because the programs have been retired for more than four years.

11B-35.002(1)(b)6.: Updates the sub-paragraph reference for consistency with other rule language cited in Rule 11B-35.003(8), F.A.C.

11B-35.002(1)(c): Revises the column header to remove “Updated (U)” from the field because the Criminal Justice Professionalism (CJP) Division will no longer track course and program updates in the rule; and revises the paragraph numbering of Rule 11B-35.002(1)(c)1.-8., because paragraphs # 1 and 3-5 were removed.

11B-35.002(1)(c)1.: Removes the Traditional Correctional Probation BRTP number 602 from the list of Correctional Probation Basic Recruit Training Programs because the program has been retired for more than four years.

11B-35.002(1)(c)2.: Removes the date the Florida Correctional Probation BRTP number 1176 was updated because the Criminal Justice Professionalism (CJP) Division will no longer track course and program updates in the rule.

11B-35.002(1)(c)3.-5.: Removes the Traditional Correctional Cross-Over Training to Traditional Correctional Probation BRTP number 667, Traditional Law Enforcement Cross-Over Training to Traditional Correctional Probation BRTP number 660, and CMS Application-Based Law Enforcement Cross-Over Training to Traditional Correctional Probation BRTP number 1156 from the list of Correctional Probation Basic Recruit Training Programs because the programs have been retired for more than four years.

11B-35.002(1)(c)6.-7.: Removes the date the Correctional Officer Cross-Over Training to Florida Correctional Probation BRTP number 1183 and Law Enforcement Officer Cross-Over Training to Florida Correctional Probation BRTP number 1184 were updated because the Criminal Justice Professionalism (CJP) Division will no longer track course and program updates in the rule.

11B-35.002(1)(c)8.: Updates the rule reference.

11B-35.002(5): Changes the sub-paragraphs because of the updated list of Commission-approved Basic Recruit Training Programs outlined in Rule 11B-35.002(5)(a)-(h), F.A.C.

11B-35.002(5)(a): Removes the Traditional Law Enforcement BRTP number 002 from the list of Basic Recruit Training Programs because the programs have been retired for more than four years.

11B-35.002(5)(c)-(d): Removes the Traditional Correctional Probation BRTP number 602 and CMS Application-Based Law Enforcement BRTP number 224 because the programs have been retired for more than four years.

11B-35.002(5)(g): Corrects the effective date of the Florida Correctional Probation Basic Recruit Training Program number 1176, Version 2008.04, and changes it from July 1, 2012 to April 1, 2008, which is the date the Commission approved the program.

11B-35.002(6)(b)2.: Changes the rule to allow an individual who may have been employed in a discipline for many years but had retired or otherwise left employment, to be eligible to attend a cross-over course that if they had entered the cross-over course prior to leaving employment, they would have been eligible.

11B-35.002(6)(b)3.: Specifies when the four year period begins for an individual to enter a cross-over course if they have only completed a Commission-approved Basic Recruit Training Program.

11B-35.002(6)(d): Changes the sub-paragraph numbering because of the updated list of Commission-approved Law Enforcement Cross-Over Basic Recruit Training Programs outlined in Rule 11B-35.002(5)(d)1.-7., F.A.C.

11B-35.002(6)(d)1.-2.: Removes the Traditional Correctional Cross-Over to CMS Application-Based Law Enforcement BRTP number 1143 and Traditional Correctional Probation Cross-Over CMS Application-Based Law Enforcement BRTP number 1157 because the programs have been retired for more than four years.

11B-35.002(6)(e)1.-7.: Removes the CMS Application-Based Law Enforcement Cross-Over to Traditional Correctional BRTP number 1155 and Traditional Correctional Probation Cross-Over to Traditional Correctional BRTP number 556 because the programs have been retired for more than four years; and renumbers subparagraphs in Rule 11B-35.002(6)(e), F.A.C.

11B-35.002(6)(f)5.: Corrects the effective date of the Correctional Officer Cross-Over Training to Florida Correctional Probation Basic Recruit Training Program number 1183, and changes it from July 1, 2012 to April 1, 2008, which is the date the Commission approved the program.

11B-35.0021(7): Adds the reference of “canine” and “diving” to the list of instructor certification topics as outlined in subsections 11B-20.0014(2)-(3), F.A.C.

11B-35.0024(3)(a)2.: Revises the CMS Defensive Tactics Performance Evaluation, form CJSTC- 6 CMS, to remove questions related to chemical agent exposure exemption.

11B-35.0024(3)(a)3.: Revises the rule text to remove the chemical agent exposure exemption to require all students to undergo chemical agent contamination as described in the CMS Criminal Justice Defensive Tactics Course.

11B-35.0024(3)(c)2.: Incorporates the revised CMS Firearms Performance Evaluation, form CJSTC-4 CMS, to include local agencies; add the Safe Handling of Firearms Course to the list of courses required to maintain the instructor to student ratio; add a line for the rangemaster’s printed name; clarify language on the proficiency check lists; and revise language to clarify scoring criteria.

11B-35.0024(3)(f)2.: Incorporates the revised CMS First Aid Performance Evaluation, form CJSTC-5 CMS, to update the proficiency requirements; include clarification that CPR instructors who possess an active CPR instructor certification; and add “agency administrator” to the form’s print and signature lines to allow local agencies to use the form to document officer requalifications as needed.

11B-35.0024(3)(h)2.: Revises the CMS Vehicle Operations Performance Evaluation, form CJSTC-7 CMS, to update the incorporated reference due to the previous renumbering of subsections to Rule 11B-35.0024(3) and add the rangemaster and agency administrator to the form’s print and signature lines to allow local agencies to use the form to document officer requalifications as needed.

11B-35.0024(4)(k): Incorporates the revised Canine Team Performance Evaluation, form CJSTC-83, to specify that only the last four digits of the applicant's social security number are required for completion of the form, and this information may be requested, pursuant to 119.071, F.S.

11B-35.003(2): Makes a grammatical change.

11B-35.003(7)-(9): Removes the Correctional Auxiliary Officer BRTP number 501 because the program has been retired for more than four years, revises the paragraph numbering, and updates the paragraph rule reference because programs were removed from Rule 11B-35.002, F.A.C., that have been retired.

11B-35.006(1)(b): Revises the paragraph numbering of Rule 11B-35.006(1)6.-48., F.A.C., because several paragraphs were removed.

11B-35.006(1)(b)6.: Removes Criminal Law, number 019, from the list of Advanced Training Program Courses and adds the course to the list of Specialized Training Program Courses based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014.

11B-35.006(1)(b)9.: Removes Sex Crimes Investigations, number 033, from the list of Advanced Training Program because the course was retired based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014.

11B-35.006(1)(b)14.: Removes Organized Crime, number 054, from the list of Advanced Training Program Courses and adds the course to the list of Specialized Training Program Courses based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014.

11B-35.006(1)(b)16.: Removes Supervision of the Youthful Offender, number 058, from the list of Advanced Training Program Courses because the course was retired based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014.

11B-35.006(1)(b)18.-19.: Removes Firefighting for Correctional Officers, number 072, and Community and Human Relations, number 073, from the list of Advanced Training Program Courses because the courses were retired based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014.

11B-35.006(1)(b)22.: Removes Computers and Technology in Criminal Justice, number 080, from the list of Advanced Training Program Courses because the course was retired based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014.

11B-35.006(1)(b)36. (NEW): Adds Violent Crime Investigator Training Course, number 1137, to the list of Advanced Training Program Courses and removes the course from the list of Specialized Training Program Courses based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014.

11B-35.006(1)(b)39.-40.: Removes Computer Crime Investigations, number 1153, and Financial Fraud Investigations, number 1154, from the list of Advanced Training Program Courses because the courses were retired based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014.

11B-35.006(1)(b)42.: Removes Computer Managing and Communicating with Inmates and Offenders, number 1161, from the list of Advanced Training Program Courses because the course was retired based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014.

11B-35.006(1)(b)44.: Removes Inmate Manipulation, number 1164, from the list of Advanced Training Program Courses because the course was retired based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014.

11B-35.006(1)(b)47.: Removes Investigating Crimes Against Children, number 1187, from the list of Advanced Training Program Courses because the course was retired based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014.

11B-35.006(1)(b)48.: Removes Field Training Officer Course for Correctional Probation Officers, number 1188, from the list of Advanced Training Program Courses because the courses were retired based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014. Also, removes the salary incentive statement (\*) associated with the course.

11B-35.007(3): Revises the paragraph numbering of Rule 11B-35.007(3)(b)-(r), F.A.C., because several paragraphs were removed.

11B-35.007(3)(b)-(c): Removes the CMS Instructor Techniques Course, number 1116, and CMS General Instructor Transition Course, number 803, from the list of Specialized Instructor Training Courses because the courses have been retired for more than four years.

11B-35.007(3)(e): Removes the CMS Vehicle Operations Instructor Transition Course, number 805, from the list of Specialized Instructor Training Courses because the course has been retired for more than four years.

11B-35.007(3)(g): Removes the CMS Firearms Instructor Transition Course, number 806, from the list of Specialized Instructor Training Courses because the course has been retired for more than four years.

11B-35.007(3)(i): Removes the CMS Defensive Tactics Instructor Transition Course, number 807, from the list of Specialized Instructor Training Courses because the course has been retired for more than four years.

11B-35.007(3)(k): Removes the CMS First Aid Instructor Transition Course, number 804, from the list of Specialized Instructor Training Courses because the course has been retired for more than four years.

11B-35.007(3)(m): Removes the Laser Speed Measurement Device (LSMD) Instructor Transition Course for Radar Instructors, number 1109, from the list of Specialized Instructor Training Courses because the course has been retired for more than four years.

11B-35.007(4): Revises the paragraph numbering of Rule 11B-35.007(4)(b)-(z), F.A.C., because several paragraphs were removed.

11B-35.007(4)(b): Removes Human Interaction Course, number 1144, from the list of Specialized Training Program Courses because the course was retired based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014.



11B-35.007(4)(j): Removes Crimes Against Children, number 1135, from the list of Specialized Training Program Courses because the course was retired based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014.

11B-35.007(4)(k): Removes Domestic Violence, number 1136, from the list of Specialized Training Program Courses because the course was retired based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014.

11B-35.007(4)(l): Removes Violent Crime Investigator Training Course, number 1137, from the list of Specialized Training Program Courses and adds the course to the list of Advanced Training Program Courses based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014.

11B-35.007(4)(n)-(p): Removes Basic Incident Command System (ICS) Course, number 1140; Intermediate Incident Command System (ICS) Course, number 1141; and Advanced Incident Command System (ICS) Course, number 1142, from the list of Specialized Training Program Courses because the courses were retired based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014.

11B-35.007(4)(r): Removes Problem Solving Model: SECURE, number 1150, from the list of Specialized Training Program Courses because the course was retired based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014.

11B-35.007(4)(w)-(x): Moves the Criminal Law, number 019; and Organized Crime, number 054, from the Advanced Training Program list to the list of Specialized Training Program Courses based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014.

11B-35.007(4)(y): Adds the newly developed Diabetic Emergencies and Officer Response, number 2009, to the list of Specialized Training Program Courses based upon the legislative mandate for FDLE to create diabetes awareness training.

11B-35.009(5): Incorporates the revised Exemption-From-Training, form CJSTC-76, to specify that only the last four digits of the applicant's social security number are required for completion of the form, and this information may be requested, pursuant to 119.071, F.S.

#### SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND

#### LEGISLATIVE RATIFICATION

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment.

FEDERAL COMPARISON STATEMENT

There are no federal requirements dealing with this topic.

SUMMARY OF HEARING

FDLE received no requests for a public hearing and no written comments were submitted.

Notice of Proposed Rule

**DEPARTMENT OF LAW ENFORCEMENT**

**Criminal Justice Standards and Training Commission**

RULE NO.: RULE TITLE:

11B-35.001: General Training Programs; Requirements and Specifications

11B-35.002: Basic Recruit Training Programs for Law Enforcement, Correctional, and Correctional Probation

11B-35.0021: Courses and Requirements for Basic Recruit Training, Advanced, Specialized and Instructor Training Requiring Proficiency Demonstration

11B-35.0024: Student Performance in Commission-approved High-Liability Basic Recruit Training Courses and Instructor Training Courses Requiring Proficiency Demonstration

11B-35.003: Basic Recruit Training Programs for Law Enforcement, Correctional, and Correctional Probation Auxiliary Training

11B-35.006: Advanced Training Program

11B-35.007: Specialized Training Program

11B-35.009: Exemption from Basic Recruit Training

PURPOSE AND EFFECT: Paragraphs 11B-35.001(8)(b)-(c), F.A.C.: Updates the rule reference and removes the specific subparagraphs because of the paragraph renumbering of paragraph 11B-35.001(8)(d).

Sub-paragraph 11B-35.001(8)(d)9.-14., F.A.C.: Updates the list of Specialized Training Program Courses that require an end-of-course examination based upon the Statewide Criminal Justice Officer Post-Basic Training Needs Assessment approved by the Commission in August 2014.

Subsection 11B-35.001(9), F.A.C.: Moves the projected implementation date of the new Correctional Probation Basic Recruit Training Program from July 1, 2015 to July 1, 2016.

Paragraph 11B-35.001(10)(a), F.A.C.: Incorporates the revised Training Report, form CJSTC-67, to specify that only the applicant's last four digits are required for completion of the form.

Paragraph 11B-35.001(10)(b), F.A.C.: Removes the Traditional Correctional Basic Recruit Training Program because the program has been retired for more than four years.

Sub-paragraph 11B-35.001(10)(d)14, F.A.C.: Revises the Physical Fitness Assessment, form CJSTC-75B, to remove questions related to exemption for previous chemical agent exposure.

Paragraph 11B-35.001(1)(f), F.A.C.: Removes the reference to a specific rule subsection and replaces it with the FDLE mailing address.

Paragraph 11B-35.002(1)(a), F.A.C.: Revises the column header to remove "Updated (U)" from the field because the Criminal Justice Professionalism (CJP) Division will no longer track course and program updates in the rule; and revises the paragraph numbering of Rule 11B-35.002(1)(a)1.-15., F.A.C.

Sub-paragraphs 11B-35.002(1)(a)1.-2., F.A.C.: Deletes the retired Traditional Law Enforcement BRTP number 002 and CMS Application-Based Law Enforcement BRTP number 224 from the list of Basic Recruit Training Programs.

Sub-paragraphs 11B-35.002(1)(a)4.-5., F.A.C.: Deletes the retired Traditional Correctional Cross-Over Training to Traditional Law Enforcement BRTP number 222 and Traditional Correctional Cross-Over Training to CMS Application-Based Law Enforcement BRTP number 1143.

Sub-paragraphs 11B-35.002(1)(a)8.-9., F.A.C.: Deletes the retired Traditional Correctional Probation Cross-Over Training to Traditional Law Enforcement BRTP number 223 and Traditional Correctional Probation Cross-Over Training to CMS Application-Based Law Enforcement BRTP number 1157.

Sub-paragraph 11B-35.002(1)(a)10., F.A.C.: Deletes the updated (U) date from the Correctional Probation Officer Cross-Over Training to Florida CMS Law Enforcement BRTP number 1179.

Sub-paragraph 11B-35.002(1)(a)11., F.A.C.: Deletes the retired Law Enforcement Auxiliary Officer BRTP number 211.

Paragraph 11B-35.002(1)(b), F.A.C.: Removes "Updated (U)" from the column header and revises the paragraph numbering of sub-paragraphs 11B-35.002(1)(b)2.-11., F.A.C.

Sub-paragraphs 11B-35.002(1)(b)2.-4.: Deletes the retired Traditional Law Enforcement Cross-Over Training to Traditional Correctional BRTP number 555, Traditional Correctional Probation Cross-Over Training to Traditional

Correctional BRTP number 556, and CMS Application-Based Law Enforcement Cross-Over Training to Traditional Correctional BRTP number 1155.

Sub-paragraph 11B-35.002(1)(b)6., F.A.C.: Updates the sub-paragraph reference in subsection 11B-35.003(8), F.A.C., and changes it from (g) to (h).

Paragraph 11B-35.002(1)(c), F.A.C.: Removes “Updated (U)” from the column header and revises the paragraph numbering of Rule 11B-35.002(1)(c)1.-8., F.A.C.

Sub-paragraph 11B-35.002(1)(c)1., F.A.C.: Deletes the retired Traditional Correctional Probation BRTP number 602.

Sub-paragraph 11B-35.002(1)(c)2., F.A.C.: Deletes the updated (U) date from the Florida Correctional Probation BRTP number 1176.

Sub-paragraphs 11B-35.002(1)(c)3.-5., F.A.C.: Deletes the retired Traditional Correctional Cross-Over Training to Traditional Correctional Probation BRTP number 667, Traditional Law Enforcement Cross-Over Training to Traditional Correctional Probation BRTP number 660, and CMS Application-Based Law Enforcement Cross-Over Training to Traditional Correctional Probation BRTP number 1156.

Sub-paragraphs 11B-35.002(1)(c)6.-7., F.A.C.: Deletes the updated (U) date from the Correctional Officer Cross-Over Training to Florida Correctional Probation BRTP number 1183 and Law Enforcement Officer Cross-Over Training to Florida Correctional Probation BRTP number 1184.

Sub-paragraph 11B-35.002(1)(c)8., F.A.C.: Updates the rule reference.

Subsection 11B-35.002(5), F.A.C.: Updates the rule reference.

Paragraph 11B-35.002(5)(a), F.A.C.: Deletes the retired Traditional Law Enforcement BRTP number 002 from the list of Basic Recruit Training Programs.

Paragraphs 11B-35.002(5)(c)-(d), F.A.C.: Deletes the retired Traditional Correctional Probation BRTP number 602 and CMS Application-Based Law Enforcement BRTP number 224.

Paragraph 11B-35.002(5)(g), F.A.C.: Revises the effective date of the Florida Correctional Probation Basic Recruit Training Program number 1176, Version 2008.04, and changes it from July 1, 2012 to April 1, 2008, which is the date the Commission approved the program.

Sub-paragraph 11B-35.002(6)(b)2., F.A.C.: Changes the rule to allow an individual who may have been employed in a discipline for many years but had retired or otherwise left employment, to be eligible to attend a cross-over course that if they had entered the cross-over course prior to leaving employment, they would have been eligible.

Sub-paragraph 11B-35.002(6)(b)3., F.A.C.: Revised to clearly identify the four year time frame in which an applicant who completes a Basic Recruit Training Program can qualify to attend a cross-over course.

Paragraph 11B-35.002(6)(d), F.A.C.: Revises the sub-paragraph numbering in sub-paragraphs 11B-35.002(5)(d)1.-7., F.A.C., because #1. and 2. were removed.

Sub-paragraphs 11B-35.002(6)(d)1.-2., F.A.C.: Deletes the retired Traditional Correctional Cross-Over to CMS Application-Based Law Enforcement BRTP number 1143 and Traditional Correctional Probation Cross-Over CMS Application-Based Law Enforcement BRTP number 1157.

Sub-paragraphs 11B-35.002(6)(e)1.-7., F.A.C.: Deletes the retired CMS Application-Based Law Enforcement Cross-Over to Traditional Correctional BRTP number 1155 and Traditional Correctional Probation Cross-Over to Traditional Correctional BRTP number 556; and renumbers subparagraphs in paragraph 11B-35.002(6)(e), F.A.C.

Sub-paragraph 11B-35.002(6)(f)5., F.A.C.: Revises the effective date of the Correctional Officer Cross-Over Training to Florida Correctional Probation Basic Recruit Training Program number 1183, and changes it from July 1, 2012 to April 1, 2008, which is the date the Commission approved the program.

Subsection 11B-35.002(7), F.A.C.: Adds “canine” and “diving” to the list of instructor certification topics.

Sub-paragraph 11B-35.0024(3)(a)2., F.A.C.: Revises the CMS Defensive Tactics Performance Evaluation, form CJSTC- 6 CMS, to remove questions related to chemical agent exposure exemption.

Sub-paragraph 11B-35.0024(3)(a)3., F.A.C.: Revises the rule text to remove the chemical agent exposure exemption to require all students to undergo chemical agent contamination as described in the CMS Criminal Justice Defensive Tactics Course.

Sub-paragraph 11B-35.0024(3)(c)2., F.A.C.: Revises and incorporates the CMS Firearms Performance Evaluation, form CJSTC-4 CMS.

Sub-paragraph 11B-35.0024(3)(f)2., F.A.C.: Incorporates the revised CMS First Aid Performance Evaluation, form CJSTC-5 CMS.

Sub-paragraph 11B-35.0024(3)(h)2., F.A.C.: Revises the CMS Vehicle Operations Performance Evaluation, form CJSTC-7 CMS.

Paragraph 11B-35.0024(4)(k), F.A.C.: Incorporates the revised Canine Team Performance Evaluation, form CJSTC-83.

Subsection 11B-35.003(2), F.A.C.: Makes a grammatical change to remove the word “an” from rule text.

Paragraphs 11B-35.003(7)-(9), F.A.C.: Deletes the retired Correctional Auxiliary Officer BRTP number 501, revises the paragraph numbering, and updates the paragraph rule reference.

Paragraph 11B-35.006(1)(b), F.A.C.: Revises the paragraph numbering of sub-paragraphs 11B-35.006(1)6.-48., F.A.C.

Sub-paragraph 11B-35.006(1)(b)6., F.A.C.: Deletes Criminal Law, number 019, from the list of Advanced Training Program Courses and adds the course to the list of Specialized Training Program Courses.

Sub-paragraph 11B-35.006(1)(b)9., F.A.C.: Retires and deletes Sex Crimes Investigations, number 033, from the list of Advanced Training Program Courses.

Sub-paragraph 11B-35.006(1)(b)14., F.A.C.: Deletes Organized Crime, number 054, from the list of Advanced Training Program Courses and adds the course to the list of Specialized Training Program Courses.

Sub-paragraph 11B-35.006(1)(b)16., F.A.C.: Retires and deletes Supervision of the Youthful Offender, number 058, from the list of Advanced Training Program Courses.

Sub-paragraphs 11B-35.006(1)(b)18.-19., F.A.C.: Retires and deletes Firefighting for Correctional Officers, number 072, and Community and Human Relations, number 073, from the list of Advanced Training Program Courses.

Sub-paragraph 11B-35.006(1)(b)22., F.A.C.: Retires and deletes Computers and Technology in Criminal Justice, number 080, from the list of Advanced Training Program Courses.

Sub-paragraphs 11B-35.006(1)(b)39.-40., F.A.C.: Retires and deletes Computer Crime Investigations, number 1153, and Financial Fraud Investigations, number 1154, from the list of Advanced Training Program Courses.

Sub-paragraph 11B-35.006(1)(b)42., F.A.C. Retires and deletes Managing and Communicating with Inmates and Offenders, number 1161, from the list of Advanced Training Program Courses.

Sub-paragraph 11B-35.006(1)(b)44., F.A.C.: Retires and deletes Inmate Manipulation, number 1164, from the list of Advanced Training Program Courses.

Sub-paragraph 11B-35.006(1)(b)47., F.A.C.: Retires and deletes Investigating Crimes Against Children, number 1187, from the list of Advanced Training Program Courses.

Sub-paragraph 11B-35.006(1)(b)48., F.A.C. Retires and deletes Field Training Officer Course for Correctional Probation Officers, number 1188, from the list of Advanced Training Program Courses and removes the salary incentive statement (\*) associated with the course.

Sub-paragraph 11B-35.006(1)(b)36., F.A.C.: Incorporates the new sub-paragraph 11B-35.006(1)(b)36., F.A.C., to add the Violent Crime Investigator Training Course, number 1137, to the list of Advanced Training Program Courses and removes the course from the list of Specialized Training Program Courses.

Subsection 11B-35.007(3), F.A.C.: Revises the paragraph numbering of paragraphs 11B-35.007(3)(b)-(r), F.A.C.

Paragraphs 11B-35.007(3)(b)-(c), F.A.C.: Deletes the retired CMS Instructor Techniques Course, number 1116, and CMS General Instructor Transition Course, number 803, from the list of Specialized Instructor Training Courses.

Paragraph 11B-35.007(3)(e), F.A.C.: Deletes the retired CMS Vehicle Operations Instructor Transition Course, number 805, from the list of Specialized Instructor Training Courses.

Paragraph 11B-35.007(3)(g), F.A.C.: Deletes the retired CMS Firearms Instructor Transition Course, number 806, from the list of Specialized Instructor Training Courses.

Paragraph 11B-35.007(3)(i), F.A.C.: Deletes the retired CMS Defensive Tactics Instructor Transition Course, number 807, from the list of Specialized Instructor Training Courses.

Paragraph 11B-35.007(3)(k), F.A.C.: Deletes the retired CMS First Aid Instructor Transition Course, number 804, from the list of Specialized Instructor Training Courses.

Paragraph 11B-35.007(3)(m), F.A.C.: Deletes the retired Laser Speed Measurement Device (LSMD) Instructor Transition Course for Radar Instructors, number 1109, from the list of Specialized Instructor Training Courses.

Subsection 11B-35.007(4), F.A.C.: Revises the paragraph numbering of paragraphs 11B-35.007(4)(b)-(z), F.A.C.

Paragraph 11B-35.007(4)(b), F.A.C.: Retires and deletes Human Interaction Course, number 1144, from the list of Specialized Training Program Courses.

Paragraph 11B-35.007(4)(j), F.A.C.: Retires and deletes Crimes Against Children, number 1135, from the list of Specialized Training Program Courses.

Paragraph 11B-35.007(4)(k), F.A.C.: Retires and deletes Domestic Violence, number 1136, from the list of Specialized Training Program Courses.

Paragraph 11B-35.007(4)(l), F.A.C.: Deletes Violent Crime Investigator Training Course, number 1137, from the list of Specialized Training Program Courses and adds the course to the list of Advanced Training Program Courses.

Paragraphs 11B-35.007(4)(n)-(p), F.A.C.: Retires and deletes the following courses from the list of Specialized Training Program Courses: Basic Incident Command System (ICS) Course, number 1140; Intermediate Incident Command System (ICS) Course, number 1141; and Advanced Incident Command System (ICS) Course, number 1142.

Paragraph 11B-35.007(4)(r), F.A.C.: Retires and deletes Problem Solving Model: SECURE, number 1150, from the list of Specialized Training Program Courses.

Paragraphs 11B-35.007(4)(w)-(x), F.A.C.: Moves the Criminal Law, number 019; and Organized Crime, number 054, from the Advanced Training Program list to the list of Specialized Training Program Courses.

Paragraph 11B-35.007(4)(y), F.A.C.: Adds new Diabetic Emergencies and Officer Response, number 2009, to the list of Specialized Training Program Courses.

Paragraph 11B-35.009(5), F.A.C.: Incorporates the revised Exemption-From-Training, form CJSTC-76.

SUMMARY: Criminal justice officer training programs and course requirements; revised Canine Team Performance Evaluation, form CJSTC-83; revised Exemption-From-Training, form CJSTC-76.

#### SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department's economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 943.03(4), 943.12(1), (2), 943.14(3), 943.17 FS.

LAW IMPLEMENTED: 119.071, 943.12, 943.17, 943.12, 943.12(5), 943.17, 943.17(1)(a), (b), 943.175, 943.25 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Wednesday, June 29, 2016 at 10:00 a.m.

PLACE: Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Joyce Gainous-Harris at (850)410-8615, or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joyce Gainous-Harris at 850-410-8615, or joycegainous-harris@fdle.state.fl.us, or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, 2331 Phillips Road, Tallahassee, Florida 32308.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bureau Chief Glen Hopkins

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 02, 2016

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 30, 2015 and  
November 2, 2015



THE FULL TEXT OF THE PROPOSED RULE IS:

11B-35.001 General Training Programs; Requirements and Specifications.

(1) through (7) No change.

(8) Student academic performance in courses.

(a) No change.

(b) The terms “successfully completed” and “successfully complete” are denoted with a “Pass” on the completed Training Report form CJSTC-67 and are defined as follows: A student enrolled in a Commission-approved Basic Recruit Training Program shall achieve a score of no less than 80% on each of the written end-of-course examinations, exclusive of demonstration of proficiency skills in the Basic Recruit Training Courses. A student enrolled in a Commission-approved Advanced or Specialized Training Program Course pursuant to subparagraph (8)(d)~~1-13~~ of this rule section shall achieve a score of no less than 80% on the written end-of-course examination. A student enrolled in a Specialized Instructor Training Course shall achieve a score of no less than 85% on the written end-of-course examination, exclusive of demonstration of any proficiency skills.

(c) The training center director or designee is responsible for the development, maintenance, and administration of comprehensive end-of-course examinations. The training center director or designee is authorized to develop, maintain, and administer additional academic tests for courses and is not limited to only the utilization of a comprehensive end-of-course examination. Training schools shall maintain examinations for Commission-approved Basic Recruit, Advanced, Specialized Instructor Training, and Specialized Training Program Courses, pursuant to subparagraph (8)(d)~~1-13~~ of this rule section and in compliance with the administration, confidentiality, and security requirements of subsections 11B-35.0085(2) - (5), F.A.C.

(d) Specialized Instructor Training Courses outlined in subsection 11B-35.007(3), F.A.C., and the following Specialized Training Program Courses require an end-of-course examination:

1. through 8. No change.

<del>9.</del>	<del>1134</del>	<del>Criminal Justice Officer Ethics Course</del>	<del>8</del>
<del>10.</del>	<del>1135</del>	<del>Crimes Against Children</del>	<del>24</del>
<del>11.</del>	<del>1136</del>	<del>Domestic Violence</del>	<del>8</del>
<del>12.</del>	<del>1137</del>	<del>Violent Crime Investigator Training Course</del>	<del>40</del>
<del>9,13.</del>	2007	Safe Handling of Firearms	16
<del>10,14.</del>	2008	District Courts of Appeal Marshal Minimum Standards Training Program	32

(e) No change.

(9) Implementation of the new Correctional Probation Basic Recruit Training Program. The Commission is preparing a significant update to the Commission-approved Correctional Probation Basic Recruit Training Program to be implemented in 2016 ~~2015~~. This program and courses are based on a statewide job-task analysis and provides an enhanced learning environment. Delivery of the program shall comply with the requirements set forth in the Commission’s new approved Correctional Probation Basic Recruit Training Curriculum.

(10) Reporting requirements for Commission-approved Basic Recruit, Advanced, and Specialized Training Program Courses are as follows:

(a) The training center director or designee shall determine the beginning and ending dates of each Basic Recruit Training Program, and within thirty days following the class starting date shall forward a Training Report, form CJSTC-67, revised November 5, 2015 ~~November 6, 2014~~, effective 9/2016 ~~7/2015~~, hereby incorporated by reference, to Commission staff through the Commission’s Automated Training Management System (ATMS). Form CJSTC-67 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615.

(b) Following the completion of a Commission-approved Basic Recruit Training Program, Advanced Training Program Course, or Instructor Training Course, the training center director or designee shall, within thirty days of the program or course completion date, electronically transmit a completed Training Report form CJSTC-67, or transmit an updated CJSTC-67 form through the Commission’s ATMS. Submission of the Academy Physical Fitness Standards Report, form CJSTC-67A, revised November 6, 2014, effective 7/2015, hereby incorporated by

reference, is required for the Florida CMS Law Enforcement, Florida Law Enforcement Academy, Florida Correctional Probation, ~~Traditional Correctional~~, and Florida CMS Correctional Basic Recruit Training Programs within thirty days of the course completion. Form CJSTC-67A can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615.

(c) No change.

(d) The training center director or designee shall ensure that the records for Commission-approved Basic Recruit, Advanced, and Specialized Training Program Courses are maintained in the course file within the training school. Each course shall be subject to audit by Commission staff. Such records shall, at a minimum, include:

1. through 13. No change.

14. For Basic Recruit Training Programs, proof of compliance with Sections 943.14(7) and 943.17(1)(g), F.S., and subsection 11B-35.001(14)(b), F.A.C., which includes a completed Physical Fitness Assessment, form CJSTC-75B, revised November 5, 2015 ~~November 6, 2014~~, effective 9/2016 ~~7/2015~~, hereby incorporated by reference. Form CJSTC-75B can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615.

15. through 16. No change.

(11) through (15) No change.

Rulemaking Authority 943.03(4), 943.12(1), (2), 943.17 FS. Law Implemented 119.071, 943.12, 943.17 FS. History–New 12-13-92, Amended 8-7-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 9-28-09, 6-3-10, 5-21-12, 3-13-13, 5-29-14, 7-29-15, \_\_\_\_\_.

11B-35.0011 Basic Abilities Test Requirements for Applicant Admission into a Law Enforcement and Correctional Basic Recruit Training Program.

(1) Basic Abilities Test. To comply with Section 943.17(1)(g), F.S., applicants who apply for entry into a Commission-approved Basic Recruit Training Program after January 1, 2002, shall obtain a passing score on a Commission-approved Basic Abilities Test (BAT) for the law enforcement or correctional disciplines, prior to entering a program. The BAT shall be administered in the state of Florida.

(a) through (e) No change.

(f) Any violation of the provisions of this rule section shall be documented in writing and submitted to Commission staff within seven days to the Florida Department of Law Enforcement, Criminal Justice Professionalism Program, Post Office Box 1489, Tallahassee, Florida 32302, ~~address set forth in subsection 11B-35.001(17), F.A.C.~~

(g) through (h) No change.

(2) No change.

Rulemaking Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.17 FS. History–New 7-29-01. Amended 11-5-02, 11-30-04, 3-21-07, 6-9-08, 5-21-12, 3-13-13, 5-29-14, \_\_\_\_\_.

11B-35.002 Basic Recruit Training Programs for Law Enforcement, Correctional, and Correctional Probation.

(1) There are established by the Criminal Justice Standards and Training Commission, Basic Recruit Training Programs (BRTTP) that provide the minimum required knowledge and proficiency skills necessary for officer employment and certification pursuant to Sections 943.10(1) - (3), F.S. Individuals who apply for employment as a Florida law enforcement, correctional, or correctional probation officer, shall successfully complete one of the following Commission-approved Basic Recruit Training Programs:

(a)	Law Enforcement Discipline			
	Program Number	Basic Recruit Training Programs	Program Hours	Retired (R) Effective (E) Updated (U)
<del>1.</del>	002	<del>Traditional Law Enforcement BRTTP</del>	672	<del>R 6/30/04</del>
<del>2.</del>	224	<del>CMS Application Based Law Enforcement BRTTP</del>	770	<del>R 3/31/08</del>

<del>1.3.</del>	1177	Florida CMS Law Enforcement B RTP	770	E-4/1/08 R-6/30/14
4.	<del>222</del>	<del>Traditional Correctional Cross Over Training to Traditional Law Enforcement B RTP</del>	<del>172</del>	<del>R-3/31/05</del>
5.	<del>1143</del>	<del>Traditional Correctional Cross Over Training to CMS Application Based Law Enforcement B RTP</del>	<del>444</del>	<del>R-3/31/08</del>
<del>2.6.</del>	1178	Correctional Officer Cross-Over Training to Florida CMS Law Enforcement B RTP	457	E-4/1/08 R-6-30-12
<del>3.7.</del>	1191	Correctional Officer Cross-Over Training to Florida CMS Law Enforcement B RTP	489	E-7/1/12 R-6-30-14
8.	<del>223</del>	<del>Traditional Correctional Probation Cross Over Training to Traditional Law Enforcement B RTP</del>	<del>412</del>	<del>R-3/31/06</del>
9.	<del>1157</del>	<del>Traditional Correctional Probation Cross Over Training to CMS Application Based Law Enforcement B RTP</del>	<del>554</del>	<del>R-3/31/08</del>
<del>4.10.</del>	1179	Correctional Probation Officer Cross-Over Training to Florida CMS Law Enforcement B RTP	579	E-4/1/08 <del>U-7/1/12</del> R-6-30-14
11.	<del>211</del>	<del>Law Enforcement Auxiliary Officer B RTP</del>	<del>317</del>	<del>R-3/31/08</del>
<del>5.12.</del>	1180	CMS Law Enforcement Auxiliary Officer B RTP	319	E-4/1/08
<del>6.13.</del>	2000	Florida Law Enforcement Academy	770	E-7/1/14
<del>7.14.</del>	2003	Correctional Officer Cross-Over Training to Florida Law Enforcement Academy	515	E-7/1/14
<del>8.15.</del>	2004	Correctional Probation Officer Cross-Over Training to Florida Law Enforcement Academy	567	E-7/1/14

(b) Correctional Discipline				
	Program Number	Basic Recruit Training Programs	Program Hours	Retired (R) Effective (E) <del>Updated (U)</del>
1.	502	Traditional Correctional B RTP	552	R-6/30/12
<del>2.</del>	<del>555</del>	<del>Traditional Law Enforcement Cross Over Training to Traditional Correctional B RTP</del>	<del>156</del>	<del>R-3/31/06</del>
<del>3.</del>	<del>556</del>	<del>Traditional Correctional Probation Cross Over Training to Traditional Correctional B RTP</del>	<del>256</del>	<del>R-3/31/08</del>
4.	<del>1155</del>	<del>CMS Application Based Law Enforcement Cross Over Training to Traditional Correctional B RTP</del>	<del>199</del>	<del>R-3/31/08</del>
<del>2.5.</del>	1181	Law Enforcement Officer Cross-Over Training to Traditional Correctional B RTP	199	R-6/30/12
<del>3.6.</del>	1192	Law Enforcement Officer Cross-Over Training to Florida CMS Correctional B RTP	156	E-7/1/12 R-6/30/14
<del>4.7.</del>	1182	Correctional Probation Officer Cross-Over Training to Traditional Correctional B RTP	256	R-6/30/12
<del>5.8.</del>	1193	Correctional Probation Officer Cross-Over Training to Florida CMS Correctional B RTP	250	E-7/1/12
<del>6.9.</del>	501	Correctional Auxiliary Officer B RTP To become certified as a Correctional Auxiliary Officer, pursuant to subsection 11B-35.003(8), F.A.C., a basic recruit student shall complete the Florida CMS Correctional B RTP, pursuant to paragraph (5)( <del>h</del> )( <del>e</del> ) of this rule section.	254	R-6/30/12

<del>7.40.</del>	1190	Florida CMS Correctional BRTP	420	E-7/1/12
<del>8.44.</del>	2005	Law Enforcement Officer Cross-Over Training to Florida CMS Correctional BRTP	172	E-7/1/14

(c) Correctional Probation Discipline				
	Program Number	Basic Recruit Training Programs	Program Hours	Retired (R) Effective (E) Updated (U)
<del>1.</del>	<del>602</del>	<del>Traditional Correctional Probation BRTP</del>	<del>412</del>	<del>R-8/31/07</del>
<del>1.2.</del>	1176	Florida Correctional Probation BRTP	449	E-4/1/08 U-7/1/12
<del>3.</del>	<del>667</del>	<del>Traditional Correctional Cross-Over Training to Traditional Correctional Probation BRTP</del>	<del>172</del>	<del>R-3/31/08</del>
<del>4.</del>	<del>660</del>	<del>Traditional Law Enforcement Cross Over Training to Traditional Correctional Probation BRTP</del>	<del>134</del>	<del>R-3/31/06</del>
<del>5.</del>	<del>1156</del>	<del>CMS Application Based Law Enforcement Cross Over Training to Traditional Correctional Probation BRTP</del>	<del>112</del>	<del>R-3/31/08</del>
<del>2.6.</del>	1183	Correctional Officer Cross-Over Training to Florida Correctional Probation BRTP	194	E-4/1/08 U-7/1/12
<del>3.7.</del>	1184	Law Enforcement Officer Cross-Over Training to Florida Correctional Probation BRTP	130	E-4/1/08 U-7/1/12 R-6/30/14
<del>4.8.</del>	NA	Correctional Probation Auxiliary BRTP; there is no course. To become certified as a Correctional Probation Auxiliary Officer, pursuant to subsection 11B-35.003(8)(7), F.A.C., a basic recruit student shall complete the Correctional Probation BRTP, pursuant to paragraph (5)(d)(f) of this rule section.	NA	NA

(2)(a) through (b) No change.

(3) through (4) No change.

(5) Commission-approved Basic Recruit Training Programs. Pursuant to Section 943.12, F.S., Commission-approved Basic Recruit Training Programs establish the minimum required entry-level training for law enforcement, correctional, and correctional probation officers. Individuals who are requesting employment as an officer, and have not had previous basic recruit training or have not been certified as an officer in the discipline for which certification is sought, and have met the requirements of Sections 943.13(1)-(8) and (11), 943.14(7), and 943.17(1)(g), F.S., shall successfully complete a Commission-approved Basic Recruit Training Program pursuant to this rule section. The Commission's Basic Recruit Training Programs are:

~~(a) Traditional Law Enforcement Basic Recruit Training Program number 002 (Retired June 30, 2004).~~

~~(a)(b) Traditional Correctional Basic Recruit Training Program number 502 (Retired June 30, 2012).~~

~~(c) Traditional Correctional Probation Basic Recruit Training Program number 602 (Retired August 31, 2007).~~

~~(d) CMS Application Based Law Enforcement Basic Recruit Training Program number 224 (Retired March 31, 2008).~~

~~(b)(e) Florida CMS Law Enforcement Basic Recruit Training Program number 1177 (Retired June 30, 2014).~~

~~(c)(f) Florida Law Enforcement Academy number 2000 (Effective July 1, 2014):~~

~~1. through 18. No change.~~

~~(d)(g) Florida Correctional Probation Basic Recruit Training Program number 1176, Version 2008.04 (Effective April 1, 2008 July 1, 2012):~~

~~1. through 9. No change.~~

~~(e)(h) Florida CMS Correctional Basic Recruit Training Program number 1190, (Effective July 1, 2012):~~

~~1. through 12. No change.~~

(6) Commission-approved Basic Recruit Cross-Over Training Programs. The Commission has established basic recruit cross-over training programs to provide lateral movement of officers between criminal justice disciplines.

(a) No change.

(b) An applicant requesting to attend a Commission-approved Basic Recruit Cross-Over Training Program shall:

1. No change.

2. Have not been separated from employment in the discipline the officer is moving from for more than four years; or

~~3.2. Within four years of the beginning date of the Commission-approved Basic Recruit Training Program for the discipline the officer is moving from, h~~ Have successfully completed the a Commission-approved Basic Recruit Training Program and passed the State Officer Certification Examination (SOCE), ~~within four years, for the discipline the officer is moving from.~~

(c) No change.

(d) Law Enforcement Cross-Over Basic Recruit Training Programs.

~~1. Traditional Correctional Cross Over to CMS Application Based Law Enforcement Basic Recruit Training Program number 1143 (Retired March 31, 2008).~~

~~2. Traditional Correctional Probation Cross Over to CMS Application Based Law Enforcement Basic Recruit Training Program number 1157 (Retired March 31, 2008).~~

~~1.3.~~ Correctional Officer Cross-Over Training to Florida CMS Law Enforcement Basic Recruit Training Program number 1178 (Retired June 30, 2012).

2.4. Correctional Officer Cross-Over Training to Florida Law Enforcement Academy number 2003 (Effective July 1, 2014). An individual, who has successfully completed the Correctional Basic Recruit Training Program and passed the SOCE, shall complete the following courses to satisfy the training requirements to become a law enforcement officer:

a. through p. No change.

~~3.5.~~ Correctional Officer Cross-Over Training to Florida CMS Law Enforcement Basic Recruit Training Program number 1191 (Retired June 30, 2014).

~~4.6.~~ Correctional Probation Officer Cross-Over Training to Florida Law Enforcement Academy number 2004 (Effective July 1, 2014). An individual who has successfully completed the Correctional Probation Basic Recruit Training Program and passed the SOCE, shall complete the following courses to satisfy the training requirements to become a law enforcement officer:

a. through o. No change.

~~5.7.~~ Correctional Probation Officer Cross-Over Training to Florida CMS Law Enforcement Basic Recruit Training Program number 1179 (Retired June 30, 2014).

(e) Correctional Cross-Over Basic Recruit Training Programs.

~~1. CMS Application Based Law Enforcement Cross Over to Traditional Correctional Basic Recruit Training Program number 1155 (Retired March 31, 2008).~~

~~2. Traditional Correctional Probation Cross Over to Traditional Correctional Basic Recruit Training Program number 556 (Retired March 31, 2008).~~

~~1.3.~~ Law Enforcement Officer Cross-Over Training to Traditional Correctional Basic Recruit Training Program number 1181 (Retired June 30, 2012).

2.4. Law Enforcement Officer Cross-Over Training to Florida CMS Correctional Basic Recruit Training Program number 2005 (Effective July 1, 2014). An individual, who has successfully completed the Law Enforcement Officer Basic Recruit Training Program and passed the SOCE, shall complete the following courses to satisfy the training requirements to become a correctional officer:

Course Title	Course Hours
Overview of Corrections	14
Officer Safety	16
Facility and Equipment	8

Intake and Release	18
Supervising in a Correctional Facility	40
Supervising Special Populations	20
Law Enforcement Cross-Over to Correctional Responding to Incidents and Emergencies	12
Cross-Over Program Updates	8
Cross-Over Handgun Transition Course	24
Law Enforcement Cross-over to Correctional Officer Wellness	12
TOTAL	172

~~3.5.~~ Law Enforcement Officer Cross-Over Training to Florida CMS Correctional BRTP number 1192 (Retired June 30, 2014).

~~4.6.~~ Correctional Probation Officer Cross-Over Training to Traditional Correctional Basic Recruit Training Program number 1182 (Retired June 30, 2012).

~~5.7.~~ Correctional Probation Officer Cross-Over Training to Florida CMS Correctional Basic Recruit Training Program number 1193 (Effective July 1, 2012). An individual, who has successfully completed the Correctional Probation Officer Basic Recruit Training Program and passed the SOCE, shall complete the following courses to satisfy the training requirements to become a correctional officer:

a. through j. No change.

(f) Correctional Probation Cross-Over Basic Recruit Training Programs.

1. through 4. No change.

5. Correctional Officer Cross-Over Training to Florida Correctional Probation Basic Recruit Training Program number 1183 (Effective ~~April 1, 2008~~ ~~July 1, 2012~~). An individual who has successfully completed the Correctional Basic Recruit Training Program and passed the SOCE, shall complete the following courses to satisfy the training requirements to become a correctional probation officer:

a. through h. No change.

Rulemaking Authority 943.03(4), 943.12(1), (2), 943.17 FS. Law Implemented 943.12, 943.17 FS. History—New 12-13-92, Amended 1-10-94, 8-7-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 9-28-09, 5-21-12, 3-13-13, 5-29-14, 7-29-15,\_\_\_\_\_.

11B-35.0021 Courses and Requirements for Basic Recruit Training, Advanced, Specialized, and Instructor Training Requiring Proficiency Demonstration.

(1) through (6) No change.

(7) Applicants shall complete the training requirements set forth in subsections 11B-20.0014(2)–(3), F.A.C., to become certified by the Commission to instruct in the topics of firearms, vehicle operations, defensive tactics, first aid, speed measurement, canine, diving, and breath test.

(8) No change.

Rulemaking Authority 943.03(4), 943.12(1), (2), 943.14(3), 943.17 FS. Law Implemented 943.12(5), 943.17 FS. History—New 12-13-92, Amended 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-21-07, 6-9-08, 9-28-09, 3-13-13, 5-29-14, 7-29-15, \_\_\_\_\_.

11B-35.0024 Student Performance in Commission-approved High-Liability Basic Recruit Training Courses, Instructor Training Courses, and Specialized and Advanced Training Program Courses Requiring Proficiency Demonstration.

(1) through (2) No change.

(3) Successful completion and demonstration of proficiency skills is required for each of the following high-liability courses: CMS Criminal Justice Defensive Tactics Course, CMS Defensive Tactics Instructor Course, CMS Criminal Justice Firearms Course, Cross-Over Handgun Transition Course, CMS Firearms Instructor Course, Safe Handling of Firearms course, CMS Law Enforcement Vehicle Operations Course, CMS Vehicle Operations Instructor Course, CMS First Aid for Criminal Justice Officers Course, and CMS First Aid Instructor Course.

(a) CMS Criminal Justice Defensive Tactics Course.

1. No change.

2. A basic recruit student shall achieve a score of no less than 80% on the required written end-of-course examination and demonstrate at 100% proficiency, defensive tactics skills taught by a training school, with the results recorded on the required CMS Defensive Tactics Performance Evaluation, form CJSTC-6 CMS, revised November 5, 2015 ~~November 7, 2013~~, effective 9/2016 ~~5/2014~~, hereby incorporated by reference. Form CJSTC-6 CMS can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615. Form CJSTC-6 CMS shall be maintained in the student or course file.

3. A basic recruit student shall be subject to chemical agent contamination as described in the CMS Criminal Justice Defensive Tactics Course. Prior to beginning a Law Enforcement, Correctional, or Correctional Probation Basic Recruit Training Program, a student shall complete the Physical Fitness Assessment form CJSTC-75B. This form verifies that there are no known medical conditions that would prevent a student from participating in chemical agent contamination. ~~A student who has provided the training school with documentation of prior chemical agent exposure that includes chemical agent contamination and working through the effects of chemical agent contamination in a training environment, shall be exempt from this requirement.~~

(b) No change.

(c) CMS Criminal Justice Firearms Course.

1. No change.

2. A basic recruit student shall achieve a score of 80% on the required written end-of-course examination and demonstrate the required Firearms High-Liability Proficiency Skills, using a commercially produced B-21E target or equivalent Pride Enterprises (P.R.I.D.E.) target, at 80% or higher using a handgun (revolver or semi-automatic pistol for both daylight and night) and a long gun (shotgun or semiautomatic rifle/carbine). The results shall be recorded on the required CMS Firearms Performance Evaluation form CJSTC-4 CMS, revised November 5, 2015 ~~December 16, 2010~~, effective 9/2016 ~~(effective 3/2013)~~, hereby incorporated by reference. Form CJSTC-4 CMS can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850)410-8615. Form CJSTC-4 CMS shall be maintained in the student or course file.

(d) through (e) No change.

(f) CMS First Aid for Criminal Justice Officers Course.

1. No change.

2. A basic recruit student shall achieve a score of no less than 80% on the required written end-of-course examination and demonstrate the required First Aid High-Liability Proficiency Skills at 100%, with the results recorded on the required CMS First Aid Performance Evaluation, form CJSTC-5 CMS, revised November 5, 2015 ~~December 16, 2010~~, effective 9/2016 ~~(effective 3/2013)~~, hereby incorporated by reference. Form CJSTC-5 CMS can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615. Form CJSTC-5 CMS shall be maintained in the student or course file.

(g) No change.

(h) CMS Law Enforcement Vehicle Operations Course.

1. No change.

2. A basic recruit student shall achieve a score of no less than 80% on the required written end-of-course examination and demonstrate the required Vehicle Operations High-Liability Proficiency Skills, with four out of five runs (80%) for each exercise, with the results recorded on the required CMS Vehicle Operations Performance Evaluation, form CJSTC-7 CMS, revised November 5, 2015 ~~November 7, 2013~~, effective 9/2016 ~~5/2014~~, hereby incorporated by reference. Form CJSTC-7 CMS can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615. Form CJSTC-7 CMS shall be maintained in the student or course file. Form CJSTC-7 CMS shall be maintained in the student or course file.

(i) No change.

(4) Successful completion and demonstration of proficiency skills is required for each of the following basic recruit, advanced, specialized instructor, or specialized training program courses: DUI Traffic Stops, Speed

Measurement Course, Speed Measurement Instructor Course, Breath Test Instructor Course, Breath Test Instructor Renewal Course, Breath Test Operator Course, Breath Test Operator Renewal Course, Agency Inspector Course, Agency Inspector Renewal Course, Underwater Police Science and Technology course, Canine Team Training Course, Canine Team Training Instructor Course, and Role-play Scenarios for Facilitative Learning.

(a) through (j) No change.

(k) Canine Team Training Course number 1198. A handler shall achieve a score of no less than 80% on the required written end-of-course examination and demonstrate the required proficiency skills at 100%, with the results recorded on the required Canine Performance Evaluation form CJSTC-83, revised November 5, 2015 ~~November 6, 2014~~, effective 9/2016 ~~7/2015~~, hereby incorporated by reference. Form CJSTC-83 can be obtained at the following FDLE Internet Address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615. A copy of the completed form shall be provided to the student and the original maintained in the course file.

(l) through (m) No change.

Rulemaking Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 119.071, 943.12, 943.17 FS. History--New 2-17-93, Amended 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 9-28-09, 6-3-10, 3-13-13, 5-29-14, 7-29-15,\_\_\_\_\_.

11B-35.003 Basic Recruit Training Programs for Law Enforcement, Correctional, and Correctional Probation Auxiliary Training.

(1) No change.

(2) To become certified as a law enforcement or correctional ~~an~~ auxiliary officer, an applicant shall meet the requirements outlined in Sections 943.13(1) – (9), and (11), 943.14(7), and 943.17(1)(g), F.S. To become certified as a correctional probation auxiliary officer, an applicant shall meet the requirements outlined in Sections 943.13(1)-(9), and (11), and 943.14(7), F.S., and shall complete the Florida Correctional Probation Basic Recruit Training Program in its entirety. Applicants requesting certification as a correctional officer shall complete the Florida CMS Correctional Basic Recruit Training Program in its entirety. Applicants requesting certification as a law enforcement auxiliary officer shall successfully complete the following Auxiliary Officer Basic Recruit Training Program requirements:

(a) through (c) No change.

(3) through (6) No change.

~~(7) Correctional Auxiliary Officer Basic Recruit Training Program number 501 (Retired June 30, 2012).~~

~~(7)(8)~~ Correctional Auxiliary Officer Basic Recruit Training Program. To become a Correctional Auxiliary Officer an individual shall complete the Florida CMS Correctional Basic Recruit Training Program, number 1190, pursuant to paragraph 11B-35.002(5)(~~e~~)(~~h~~), F.A.C.

~~(8)(9)~~ Correctional Probation Auxiliary Officer Basic Recruit Training Program. To become a Correctional Probation Auxiliary Officer an individual shall complete the Florida Correctional Probation Basic Recruit Training Program, number 1176, pursuant to paragraph 11B-35.002(5)(~~d~~)(~~g~~), F.A.C.

Rulemaking Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.12(5), 943.17(1)(a) FS. History--New 12-13-92, Amended 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 9-28-09, 6-3-10, 3-13-13, 5-29-14,\_\_\_\_\_.

11B-35.006 Advanced Training Program.

(1) Commission-approved Advanced Training Program Courses were created to enhance an officer's knowledge, skills, and abilities for the job the officer performs and are used by an officer to satisfy mandatory retraining requirements or eligibility for salary incentive monies pursuant to Rule Chapter 11B-14, F.A.C.

(a) No change.

(b) The following is a complete list of active Advanced Training Program Courses:

1. through 5. No change.

<del>6.</del>	019	Criminal Law	40
<del>6.7.</del>	020	Case Preparation and Court Presentation	40



<del>7,8.</del>	032	Special Tactical Problems	40
<del>9.</del>	<del>033</del>	<del>Sex Crimes Investigations</del>	40
<del>8,10.</del>	036	Injury and Death Investigations	40
<del>9,11.</del>	047	Interviews and Interrogations	40
<del>10,12.</del>	050	Stress Management Techniques	40
<del>11,13.</del>	053	Crisis Intervention	40
<del>14.</del>	<del>054</del>	<del>Organized Crime</del>	40
<del>12,15.</del>	057	Discipline and Special Confinement Techniques	40
<del>16.</del>	<del>058</del>	<del>Supervision of the Youthful Offender</del>	40
<del>13,17.</del>	068	Advanced Report Writing and Review	40
<del>18.</del>	<del>072</del>	<del>Firefighting for Correctional Officers</del>	40
<del>19.</del>	<del>073</del>	<del>Community and Human Relations</del>	40
<del>14,20.</del>	074	Substance Abuse Awareness and Education	40
<del>15,21.</del>	077	Underwater Police Science and Technology	80
<del>22.</del>	<del>080</del>	<del>Computers and Technology in Criminal Justice</del>	40
<del>16,23.</del>	085	Emergency Preparedness for Correctional Officers	40
<del>17,24.</del>	087	Advanced Traffic Homicide Investigations	80
<del>18,25.</del>	088	Traffic Crash Reconstruction	80
<del>19,26.</del>	090	School Resource Officer	40
<del>20,27.</del>	091	Domestic Intervention and Investigations	40
<del>21,28.</del>	093	Hostage Negotiation	40
<del>22,29.</del>	094	Drug Abuse Resistance Education (D.A.R.E.) – FDLE instructed only	80
<del>23,30.</del>	096	Drug Abuse Resistance Education (D.A.R.E.)	40
<del>24,31.</del>	094 & 097	Drug Abuse Resistance Education (D.A.R.E.)	40
<del>25,32.</del>	098	Basic Traffic Homicide Investigations	80
<del>26,33.</del>	100	Crimes Against the Elderly	40
<del>27,34.</del>	107	Middle Management	40
<del>28,35.</del>	809	*Field Training Officer Course for Law Enforcement Officers (This course is not mandated for field training officers)	40
<del>29,36.</del>	1100	*Field Training Officer Course for Correctional Officers (This course is not mandated for field training officers)	40
<del>30,37.</del>	1151	Conducting Background Investigations	40
<del>31,38.</del>	1152	Investigation and Supervision of Officer-Involved Deadly Force Incidents	40
<del>39.</del>	<del>1153</del>	<del>Computer Crime Investigations</del>	40
<del>40.</del>	<del>1154</del>	<del>Financial Fraud Investigations</del>	40
<del>32,41.</del>	1158	Speed Measurement Course	40
<del>42.</del>	<del>1161</del>	<del>Managing and Communicating with Inmates and Offenders</del>	40
<del>33,43.</del>	1163	Gangs and Security Threat Groups	40
<del>44.</del>	<del>1164</del>	<del>Inmate Manipulation</del>	40
<del>34,45.</del>	1165	Spanish for Criminal Justice Professionals	40
<del>35,46.</del>	1166	Advanced Investigative Techniques of Human Trafficking Offenses	40
<del>47.</del>	<del>1187</del>	<del>Investigating Crimes Against Children</del>	40
<del>48.</del>	<del>1188</del>	<del>*Field Training Officer Course for Correctional Probation Officers (This course is not mandated for field training officers)</del>	40
<del>36.</del>	<del>1137</del>	<del>Violent Crime Investigator Training Course</del>	40
*Officers who are currently receiving salary incentive payment for completion of the Field Training Officer Course number 051, are not eligible to receive additional salary incentive credit for course number 809; <u>or</u> 1100; <u>or</u> 1188.			
Officers who are currently receiving salary incentive payment for completion of the Radar Speed			

Measurement Training Course for Law Enforcement Officers number 055 and Laser Speed Measurement Operators Course for Law Enforcement Officers number 095 are not eligible to receive additional salary incentive credit for course number 1158.
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(2) through (5) No change.

Rulemaking Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.12(5), 943.17(1)(b) FS. History—New 12-13-92, Amended 1-10-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 9-28-09, 6-3-10, 3-13-13.

11B-35.007 Specialized Training Program.

(1) through (2) No change.

(3) Specialized Instructor Training Courses pursuant to paragraph (1)(b) of this rule section. The following Specialized Instructor Training Courses are developed and approved by the Commission for instructor training and shall be delivered in their entirety by a training school for an individual to qualify to apply as a Commission-certified instructor.

(a) No change.

<del>(b)</del>	1116	<del>CMS Instructor Techniques Course (Retired 11/14/08)</del>	80
<del>(e)</del>	803	<del>CMS General Instructor Transition Course (Retired 3/31/08)</del>	12
<del>(b)(d)</del>	800	CMS Vehicle Operations Instructor Course	40
<del>(e)</del>	805	<del>CMS Vehicle Operations Instructor Transition Course (Retired 3/31/08)</del>	16
<del>(c)(f)</del>	801	CMS Firearms Instructor Course	44
<del>(g)</del>	806	<del>CMS Firearms Instructor Transition Course (Retired 3/31/08)</del>	12
<del>(d)(h)</del>	802	CMS Defensive Tactics Instructor Course	80
<del>(i)</del>	807	<del>CMS Defensive Tactics Instructor Transition Course (Retired 3/31/08)</del>	32
<del>(e)(j)</del>	1114	CMS First Aid Instructor Course	40
<del>(k)</del>	804	<del>CMS First Aid Instructor Transition Course (Retired 3/31/08)</del>	8
<del>(f)(l)</del>	1107	Canine Team Training Instructor Course (Retired 11/6/13)	40
	1199	Canine Team Training Instructor Course	80
<del>(m)</del>	1109	<del>Laser Speed Measurement Device (LSMD) Instructor Transition Course for Radar Instructors (Retired 12/31/08)</del>	24
<del>(g)(n)</del>	1110	Breath Test Instructor Course	40
<del>(h)(o)</del>	1111	Breath Test Instructor Renewal Course	8
<del>(i)(p)</del>	1159	Speed Measurement Instructor Course	40
<del>(j)(q)</del>	1186	Florida General Instructor Techniques Course	64
<del>(k)(r)</del>	2001	Role-play Scenarios for Facilitative Learning	16

(4) Commission-approved Specialized Training Program Courses pursuant to paragraph (1)(c) of this rule section. The following Commission-approved Specialized Training Program Courses are developed and approved by the Commission and have not been designated as Commission-approved Advanced Training Program Courses:

(a) No change.

<del>(b)</del>	1144	<del>Human Interaction Course</del>	16
<del>(b)(e)</del>	1131	Human Diversity In-service Training for Discriminatory Profiling and Professional Traffic Stops	4
<del>(c)(d)</del>	1112	Canine Team Training Course (Retired 11/6/13)	400
	1198	Canine Team Training Course (Effective 11/7/13)	480
<del>(d)(e)</del>	1113	<del>Laser Speed Measurement Device (LSMD) Transition Operators Course for Radar Operators (Retired 12/31/08)</del>	12
<del>(e)(f)</del>	1132	Parking Enforcement Specialist for Civilians	16
<del>(f)(g)</del>	1133	Selective Traffic Enforcement Program for Civilians	80
<del>(g)(h)</del>	732	Traffic Control Officer for Civilians	8
<del>(h)(i)</del>	1134	Criminal Justice Officer Ethics Course	8

(j)	1135	Crimes Against Children	24
(k)	1136	Domestic Violence	8
(l)	1137	Violent Crime Investigator Training Course	40
(i)(m)	808	CMS Field Training Officer Transition Course (Retired 12/31/08)	8
(n)	1140	Basic Incident Command System (ICS) Course	6
(o)	1141	Intermediate Incident Command System (ICS) Course	18
(p)	1142	Advanced Incident Command System (ICS) Course	14
(j)(q)	1149	Special Populations	32
(r)	1150	Problem Solving Model: SECURE	6
(k)(s)	1160	Dart-Firing Stun Gun	8
(l)(t)	1167	CMS General Instructor Update Course (Retired 12/31/10)	4
(m)(u)	1169	CMS Defensive Tactics and Firearms Instructor Update Course (Retired 12/31/10)	6
(n)(v)	1185	Elder Abuse Investigations	4
(o)(w)	1189	Physical Fitness Trainer Course	32
(p)(x)	1194	Responding to Veterans	16
(q)(y)	1195	Public Safety Telecommunications for Law Enforcement Officers	40
(r)(z)	1197	STEP Course for Red Light Cameras	40
(s)(aa)	2002	Property Repossession Processes	2
(t)(bb)	2006	Canine Team Training Instructor Update Course	24
(u)(ee)	2007	Safe Handling of Firearms	16
(v)(dd)	2008	District Courts of Appeal Marshal Minimum Standards Training Program	32
(w)	019	Criminal Law	40
(x)	054	Organized Crime	40
(y)	2009	Diabetic Emergencies and Officer Response	2

(5) through (7) No change.

Rulemaking Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.175, 943.25 FS. History--New 12-13-92, Amended 8-7-94, 1-2-97, 7-7-99, 8-22-00, 7-29-01, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 9-28-09, 5-21-12, 3-13-13, 5-29-14, 7-29-15,\_\_\_\_\_.

#### 11B-35.009 Exemption from Basic Recruit Training.

(1) through (4) No change.

(5) Documentation requirements for out-of-state, federal, and inactive Florida Officers. Upon verification of an individual's request for exemption of training, pursuant to this rule section, an employing agency or Criminal Justice Selection Center shall submit to Commission staff a completed Exemption-From-Training, form CJSTC-76, revised ~~November 5, 2015~~ ~~November 6, 2014~~, effective ~~9/2016~~ ~~7/2015~~, hereby incorporated by reference, for out-of-state, federal, and inactive Florida Officers. Form CJSTC-76 can be obtained at the following FDLE Internet address: <http://www.fdle.state.fl.us/Content/CJST/Publications/Professionalism-Program-Forms.aspx>, or by contacting Commission staff at (850) 410-8615. Supporting documentation verifying the individual's compliance with comparable basic recruit training and sworn criminal justice experience pursuant to this rule section shall be maintained on file by the employing agency or Criminal Justice Selection Center and submitted to Commission staff for review. The agency shall be notified of the approval or denial of the requested exemption of certification in writing within 30 working days. Any appeal of denial of exemption is governed by Section 120.57, F.S.

(6) through (9) No change.

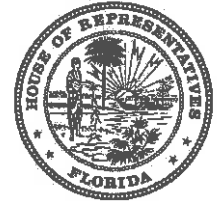
Rulemaking Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 119.071, 943.131(2) FS. History--New 1-2-97, Amended 7-7-99, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, 5-21-12, 3-13-13, 5-29-14, 7-29-15,\_\_\_\_\_.

ANDY GARDINER  
President



Senator Denise Grimsley, Chair  
Representative W. Travis Cummings, Vice Chair  
Senator Aaron Bean  
Senator Dwight Bullard  
Senator Nancy C. Detert  
Senator Geraldine F. "Geri" Thompson  
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Representative Hazelle P. "Hazel" Rogers  
Representative Barbara Watson

STEVE CRISAFULLI  
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THE FLORIDA LEGISLATURE  
JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE

June 16, 2016

Mr. Timothy Giesecke  
Bureau Chief  
Criminal Justice Information Services  
Florida Department of Law Enforcement  
2331 Phillips Road  
Tallahassee, Florida 32308

**RE: Department of Law Enforcement  
Rules 11C-6.004, .009 and .010**

Dear Mr. Giesecke:

After reviewing the above-referenced rules, I offer the following comments for your consideration and written response:

**Notice:** The citation to the rulemaking authority inadvertently lists section 943.03(4), F.S., twice. Please publish a notice of correction to address this issue.

The citations included in the law implemented section refer to section 432.12, F.S. This citation should be removed as this statute does not exist. Please include this revision in your notice of correction.

**11C-6.004(3)(b)** Paragraph (3)(b) of the proposed rule reiterates the statutory language contained in section 943.053(3)(e), Fla. Stat. (2016).

Please explain why the aforementioned paragraph is a necessary part of the proposed rule. "Rules are not intended to simply repeat statutory language; they are intended to implement and interpret statutes by 'fleshing out' or filling gaps in the statutory directives and by providing additional detail than [sic] the statutes." RHC and Associates, Inc. v. Hillsborough County, Case No. 02-3138, at ¶125 (DOAH Oct. 11, 2002). See also §120.545(1)(c), Fla. Stat. (2016). Further, it seems that the above-listed rule language does not comport with the requirements of section 120.52(16), Fla. Stat. (2016).

If the department does deem paragraph (3)(b) to be necessary, then the citation to section 943.053(3)(b), F.S., should be corrected to section 943.053(3)(e), F.S., and the reference to the “guardian ad litem program” should be corrected to read the “Florida Guardian ad Litem Program.”

**11C-6.004(4)** This paragraph references two forms. Pursuant to section 120.54 (1)(i)3., F.S.:

*“In rules adopted after December 31, 2010, material may not be incorporated by reference unless:*

- a. The material has been submitted in the prescribed electronic format to the Department of State and the full text of the material can be made available for free public access through an electronic hyperlink from the rule making the reference in the Florida Administrative Code; or*
- b. The agency has determined that posting the material on the Internet for purposes of public examination and inspection would constitute a violation of federal copyright law, in which case a statement to that effect, along with the address of locations at the Department of State and the agency at which the material is available for public inspection and examination, must be included in the notice required by subparagraph (3)(a)1.”*

Please revise the proposed rule text to include the required hyperlinks to the forms.

**11C-6.009** This rule references several forms. Please see the comment for rule 11C-6.004(4).

The citations in the law implemented section refer to federal regulations. State law enforcement agencies do not inherently have the authority to enforce federal law. Does the department have a memorandum of understanding with the federal government that allows the department to enforce these provisions of federal law? If not, then the federal citations should be removed from the law implemented section of the rule.

**11C-6.009(5)** The proposed rule text adds the language, “or by other electronic means in addition to the telephone.” Section 790.065(1)(a)3., F.S. (2016), specifically requires that prior to sale or delivery of a firearm that a licensed importer, licensed manufacturer or licensed dealer must request the department to conduct a check of the relevant information “by means of a toll-free telephone call.” Please provide the department’s statutory authority to modify that requirement to include other electronic means in addition to the phone.

Mr. Timothy Giesecke  
June 16, 2016  
Page 3

**11C-6.009(8)** The title for form number FDLE 40-020 is inconsistent throughout the rule text and on the form provided by the department's website. Please revise. Further, it appears that the form FDLE 40-020 provided on the department's website fails to comport with the requirements of rule 1-1.013(2)(a), F.A.C., and should be revised.

Finally, it appears that the department has made a substantive change to form FDLE 40-020 by changing the number of calendar days to return an appeals form. Please forward a copy of the new form to the committee for my review.

**11C-6.010** The citations included in the law implemented section refer to section 432.12, F.S. This citation should be removed as this statute does not exist.

**11C-6.010(7)** Should the reference to the AFRNP instead be to the BIS database?

**11C-6.010(8)** Should the second reference to the AFRNP instead be to the BIS database?

Should you have any questions, please do not hesitate to contact me. Otherwise, I look forward to your written response.

Sincerely,



Sharon Jones  
Senior Attorney



Florida Department of  
Law Enforcement

Richard L. Swearingen  
*Commissioner*

**Office of General Counsel**  
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Rick Scott, *Governor*  
Pam Bondi, *Attorney General*  
Jeff Atwater, *Chief Financial Officer*  
Adam Putnam, *Commissioner of Agriculture*

July 5, 2016

Ms. Sharon Jones  
Senior Attorney  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, FL 32399-1400

RE: Department of Law Enforcement  
Rules 11C-6.004, .009 and .010

Dear Ms. Jones:

I am writing in response to your letter dated June 16, 2016, regarding the JAPC review and findings of the proposed rule revisions to Rule Chapter 11C-6, F.A.C. FDLE provides the following:

**JAPC Comment:**

**Notice:** The citation to the rulemaking authority inadvertently lists section 943.03(4), F.S., twice. Please publish a notice of correction to address this issue.

The citations included in the law implemented section refer to section 432.12, F.S. This citation should be removed as this statute does not exist. Please include this revision in your notice of correction.

**FDLE Response:** The inadvertent duplicative listing of section 943.03(4), F.S., should not warrant a Notice of Correction. It does not confuse, mislead or state inaccurate information. FDLE suggests that a Notice of Correction need not be filed.

The citation to the law implemented was a typo; it should refer to section 435.12, F.S., and not section 432.12, F.S. FDLE requests that the proposed rule change be considered a technical revision after promulgation of the proposed rules. If that is not satisfactory to you, then FDLE will file a Notice of Correction.

**11C-6.004(3)(b):** Paragraph (3)(b) of the proposed rule reiterates the statutory language contained in section 943.053(3)(e), Fla. Stat. (2016).

Please explain why the aforementioned paragraph is a necessary part of the proposed rule. "Rules are not intended to simply repeat statutory language; they are intended to implement and interpret statutes by 'fleshing out' or filling gaps in the statutory directives and by providing additional detail than [sic] the statutes." RHC and Associates, Inc. v. Hillsborough County, Case No. 02-3138, at ~125 (DOAH Oct. 11, 2002).

See also §120.545(1)(c), Fla. Stat. (2016). Further, it seems that the above-listed rule language does not comport with the requirements of section 120.52(16), Fla. Stat. (2016).

If the department does deem paragraph (3)(b) to be necessary, then the citation to section 943.053(3)(b), F.S., should be corrected to section 943.053(3)(e), F.S., and the reference to the "guardian ad litem program" should be corrected to read the "Florida Guardian ad Litem Program."

**FDLE Response:** FDLE is aware of the requirement not to repeat the statutory language in a rule. However in this case, the determination to do such was based upon other factors. In an effort to avoid confusion and put the rule provisions into context, the related statutory language was included.

This is how the rule language could appear without the duplication:

(b) As provided in Section 943.053(3)(~~b~~)(e), F.S., a processing fee of \$24 shall be charged for each subject inquired upon except as otherwise provided in paragraph (3)(e).

Omitting the statutory provisions would not be helpful to users of the Rule (i.e., persons concerned about the fee for accessing criminal history records), who would then need to refer to the statute to know which fee applied in which situation. This is one of numerous instances where statutory information is repeated in a rule, *not* to "implement" the statute or to "fill in gaps," but for the convenience and benefit of the user (including here, other agencies and members of the public). If all references to any statutes which are not, strictly speaking, the object of the rulemaking are to be avoided in the text of the rule itself, leaving only such portion as the rule actually and directly affects, the result will be rules that are needlessly obscure, for the comprehension of which more time (i.e., researching the statutes) will be required.

Section 943.053(3)(b), F.S., will be corrected to "(3)(e)."



The phrase guardian ad litem program in the proposed rule language directly quotes the same phrase "guardian ad litem program," as it is stated in the (amended) statute: "the fee for the guardian ad litem program." It should be considered correct as written.

FDLE requests that the proposed rule changes be considered a technical revision after promulgation of the proposed rules. If that is not satisfactory to you, then FDLE will revise the language in the next rule promulgation package, which should begin in October or November of 2016.

**11C-6.004(4):** This paragraph references two forms. Pursuant to section 120.54 (1)(i)3., F.S.:

*"In rules adopted after December 31, 2010, material may not be incorporated by reference unless:*

*a. The material has been submitted in the prescribed electronic format to the Department of State and the foil text of the material can be made available for free public access through an electronic hyperlink from the rule making the reference in the Florida Administrative Code; or*

*b. The agency has determined that posting the material on the Internet for purposes of public examination and inspection would constitute a violation of federal copyright law, in which case a statement to that effect, along with the address of locations at the Department of State and the agency at which the material is available for public inspection and examination, must be included in the notice required by subparagraph (3)(a)1. "*

Please revise the proposed rule text to include the required hyperlinks to the forms.

**FDLE Response:** The hyperlink is not available, as it will be derived from the filing of incorporated-by-reference materials in the current proposed rules. The form will not be filed until the form is approved by your office. See Rule 1-1.013(5)(a), F.A.C. - Materials Incorporated by Reference, which specifies that the forms need to be filed at least three days before filing for adoption.

**11C-6.009** This rule references several forms. Please see the comment for rule 11C-6.004(4).

The citations in the law implemented section refer to federal regulations. State law enforcement agencies do not inherently have the authority to enforce federal law. Does the department have a memorandum of understanding with the federal government that allows the department to enforce these provisions of federal law? If not, then the federal citations should be removed from the law implemented section of the rule.

**FDLE Response:** The authority can be found at 28 C.F.R. Part 25, in several places:

**§ 25.1 Purpose and authority.**

The purpose of this subpart is to *establish policies and procedures implementing the Brady Handgun Violence Prevention Act (Brady Act), Public Law 103–159, 107 Stat. 1536.* The Brady Act requires the Attorney General to establish a National Instant Criminal Background Check System (NICS) to be contacted by any licensed importer, licensed manufacturer, or licensed dealer of firearms for information as to whether the transfer of a firearm to any person who is not licensed under 18 U.S.C. 923 would be in violation of Federal or state law. The regulations in this subpart are issued pursuant to section 103(h) of the Brady Act, 107 Stat. 1542 (18 U.S.C. 922 note), and include requirements to ensure the privacy and security of the NICS and appeals procedures for *persons who have been denied the right to obtain a firearm as a result of a NICS background check performed by the Federal Bureau of Investigation (FBI) or a state or local law enforcement agency.*

63 FR 58307, Oct. 30, 1998; Order No. 3042–2009, 74 FR 5776, Jan. 30, 2009, unless otherwise noted.

**28 C.F.R. § 25.1**

***POC (Point of Contact)*** means a state or local law enforcement agency serving as an intermediary between an FFL and the federal databases checked by the NICS. A POC will receive NICS background check requests from FFLs, check state or local record systems, perform NICS inquiries, determine whether matching records provide information demonstrating that an individual is disqualified from possessing a firearm under Federal or state law, and respond to FFLs with the results of a NICS background check. **A POC will be an agency with express or implied authority to perform POC duties pursuant to state statute, regulation, or executive order.**

**28 C.F.R. § 25.2**

***Denying agency*** means a POC or the NICS Operations Center, whichever determines that information in the NICS indicates that the transfer of a firearm to a person would violate federal or state law, based on a background check.

**28 C.F.R. § 25.6**

**Accessing records in the system.**

(a) FFLs may initiate a NICS background check only in connection with a proposed firearm transfer as required by the Brady Act. FFLs are strictly prohibited from initiating a NICS background check for any other purpose. The process of accessing the NICS for the purpose of conducting a NICS background check is initiated by an FFL's contacting the FBI NICS Operations Center (by telephone or electronic dial-up access) **or a POC.** FFLs in each state will be advised by the ATF whether they are required to initiate NICS background checks with the NICS Operations Center or a POC and how they are to do so.

(d) **Access to the NICS through POCs.** In states where a POC is designated to process background checks for the NICS, FFLs will contact the POC to initiate a NICS background check. Both ATF and the POC will notify FFLs in the POC's state of the means by which FFLs can contact the POC. The NICS will provide POCs with electronic access to the system virtually 24 hours each day through the NCIC communication network. Upon receiving a request for a background check from an FFL, a POC will:

- (1) Verify the eligibility of the FFL either by verification of the FFL number or an alternative POC-verification system;
- (2) Enter a purpose code indicating that the query of the system is for the purpose of performing a NICS background check in connection with the transfer of a firearm; and
- (3) Transmit the request for a background check via the NCIC interface to the NICS.

#### **28 C.F.R. § 25.6**

Section 790.065, F.S., is based, in part, upon the Brady Handgun Violence Prevention Act, PL 103-159, November 30, 1993, 107 Stat 1536, which, through implementing federal regulations, provides FDLE with the authority to implement the federal law. Additionally, FDLE does have a user agreement with the FBI regarding the sharing of information relating to criminal histories.

**11C-6.009(5):** The proposed rule text adds the language, "or by other electronic means" in addition to the telephone." Section 790.065(1)(a)3., F.S. (2016), specifically requires that prior to sale or delivery of a firearm that a licensed importer, licensed manufacturer or licensed dealer must request the department to conduct a check of the relevant information "by means of a toll-free telephone call." Please provide the department's statutory authority to modify that requirement to include other electronic means in addition to the phone.

**FDLE Response:** The circumstances pertaining to this issue present complications. While the "black letter" of the law requires statutory authority, to discard the proposed language would cause serious problems.

The statutory language in referring to a background check that may be conducted "by means of a toll-free telephone call," as authorized by law, predates the feasibility of using an automated system for this purpose. The telephone-query system is still in operation, and will continue so as long as it is in the law. The electronic (automated) system is for the convenience of the federally-licensed firearm dealers who are required by federal and state law to initiate background checks on prospective firearm purchasers, and is an option, not a mandate. Dealers are at all times free to use the automated system or not, as they choose.

As background, currently 85% (approximately 400,000) of all transactions are submitted by electronic means. The benefit is that a firearm dealer does not have to tie up a business phone line and an employee to submit and then wait on the answer to background checks. By submitting electronically, the employee is free to continue to wait on customers and the business line remains open for incoming business calls. Approximately one third of all background checks submitted electronically are "auto-approved," meaning when the criminal justice information systems queried respond with "no record found" the transaction is approved without human intervention. This process occurs in less than 20 seconds. Without this process the telephone hold times and the transaction processing time would increase dramatically. The number of people that FDLE would then have to employ to process background checks in a timely manner would more than triple.

There would be no logic or benefit in removing any reference to it from the rule if the automated system is to be allowed to remain in operation.

When the implementing statute, section 790.065, F.S., is brought before the Legislature for revision, FDLE will seek to amend the statute to add "by other electronic means."

**11C-6.009(8):** The title for form number FDLE 40-020 is inconsistent throughout the rule text and on the form provided by the department's website. Please revise.

Further, it appears that the form FDLE 40-020 provided on the department's website fails to comport with the requirements of rule 1-1.013(2)(a), F.A.C., and should be revised.

Finally, it appears that the department has made a substantive change to form FDLE 40-020 by changing the number of calendar days to return an appeals form. Please forward a copy of the new form to the committee for my review.

**FDLE Response:** FDLE form 40-020 titles in the rule text will be amended to provide consistency. Attached is the amended form FDLE 40-020 for your review. Once approved, a hyperlink will be inserted in the rule text and on the FDLE website.

The hyperlink is currently not available, as it will be derived from the filing of incorporated by reference materials in the current proposed rules. The form will not be filed until the form is approved by your office. See Rule 1-1.013(5)(a), F.A.C. - Materials Incorporated by Reference, which specifies that the forms need to be filed at least three days before filing for adoption.

**11C-6.010:** The citations included in the law implemented section refer to section 432.12, F.S. This citation should be removed as this statute does not exist.

**FDLE Response:** The citation to the law implemented was a typo; it should refer to section 435.12, F.S. and not section 432.12, F.S. FDLE requests that the proposed rule change be considered a technical revision after promulgation of the proposed rules. If that is not satisfactory to you, then FDLE will file a Notice of Correction.

Ms. Sharon Jones  
July 5, 2016  
Page 7

**11 C-6.010(7):** Should the reference to the AFRNP instead be to the BIS database?


**FDLE Response:** No, only fingerprints (biometrics) are retained in the BIS database; the AFRNP database includes demographic information.

**11C-6.010(8):** Should the second reference to the AFRNP instead be to the BIS database?

**FDLE Response:** No, only fingerprints (biometrics) are retained in the BIS database; the AFRNP database includes demographic information.

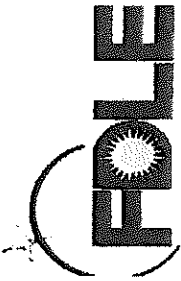
If you have any additional questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Fern Rosenwasser". The signature is written in black ink and extends across the width of the page.

Fern Rosenwasser  
Assistant General Counsel

FR/rm



Florida Department of Law Enforcement  
Criminal Justice Information Services Division/User Services Bureau

**VECHS DISSEMINATION LOG**  
**Volunteer & Employee Criminal History System (VECHS)**  
 for Criminal History Record Checks  
 under the National Child Protection Act of 1993, as amended,  
 and Section 943.0542, Florida Statutes

Date	Person Making Dissemination	Name on Disseminated Information	SID/ FBI UCN#	Requesting Entity Name, Number and Person	Disseminated by Telephone, Fax, or Mail?	Date Qualified Entity Status Verified

**INSTRUCTIONS:** A log entry must be made every time you share with another qualified entity any information you obtained from a criminal history records check with FDLE or the FBI. This includes the sharing of "No Record" information. The Dissemination Log must be retained for four (4) years from the date of the entry, and it must be made available to FDLE and FBI auditors.

**REMINDER:** Criminal history record information received from FDLE or the FBI under the National Child Protection Act, as amended, and section 943.0542, Florida Statutes, shall be used or shared only for the screening of current or prospective FLORIDA employees, volunteers, contractors, and/or vendors of QUALIFIED ENTITIES, pursuant to the these laws. Misuse or unauthorized release of the information could subject you to civil and criminal sanctions.

NCPA 4

Rule Ref: 11C-6.004

## Firearms Transaction Record Part I - Over-the-Counter

**WARNING: You may not receive a firearm if prohibited by Federal or State law. The information you provide will be used to determine whether you are prohibited under law from receiving a firearm. Certain violations of the Gun Control Act, 18 U.S.C. §§ 921 et seq., are punishable by up to 10 years imprisonment and/or up to a \$250,000 fine.**

Transferor's Transaction  
Serial Number (if any)

Prepare in original only. All entries must be handwritten in ink. Read the Notices, Instructions, and Definitions on this form. "PLEASE PRINT."

### Section A - Must Be Completed Personally By Transferee (Buyer)

1. Transferee's Full Name					
Last Name	First Name	Middle Name (If no middle name, state "N/A")			
2. Current Residence Address (U.S. Postal abbreviations are acceptable. Cannot be a post office box.)					
Number and Street Address	City	County	State	ZIP Code	
3. Place of Birth		4. Height	5. Weight	6. Gender	
U.S. City and State	-OR- Foreign Country	Ft. _____ In. _____	(Lbs.)	<input type="checkbox"/> Male <input type="checkbox"/> Female	
				7. Birth Date	
				Month Day Year	
8. Social Security Number (Optional, but will help prevent misidentification)			9. Unique Personal Identification Number (UPIN) if applicable (See Instructions for Question 9.)		
10.a. Ethnicity		10.b. Race (Check one or more boxes.)			
<input type="checkbox"/> Hispanic or Latino		<input type="checkbox"/> American Indian or Alaska Native			
<input type="checkbox"/> Not Hispanic or Latino		<input type="checkbox"/> Black or African American			
		<input type="checkbox"/> White			
		<input type="checkbox"/> Asian			
		<input type="checkbox"/> Native Hawaiian or Other Pacific Islander			
11. Answer questions 11.a. (see exceptions) through 11.i. and 12 (if applicable) by checking or marking "yes" or "no" in the boxes to the right of the questions.					
a. Are you the actual transferee/buyer of the firearm(s) listed on this form? Warning: You are not the actual buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual buyer, the dealer cannot transfer the firearm(s) to you. (See Instructions for Question 11.a.) Exception: If you are picking up a repaired firearm(s) for another person, you are not required to answer 11.a. and may proceed to question 11.b.				Yes <input type="checkbox"/>	No <input type="checkbox"/>
b. Are you under indictment or information in any court for a felony, or any other crime, for which the judge could imprison you for more than one year? (See Instructions for Question 11.b.)				Yes <input type="checkbox"/>	No <input type="checkbox"/>
c. Have you ever been convicted in any court of a felony, or any other crime, for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation? (See Instructions for Question 11.c.)				Yes <input type="checkbox"/>	No <input type="checkbox"/>
d. Are you a fugitive from justice?				Yes <input type="checkbox"/>	No <input type="checkbox"/>
e. Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance?				Yes <input type="checkbox"/>	No <input type="checkbox"/>
f. Have you ever been adjudicated mentally defective (which includes a determination by a court, board, commission, or other lawful authority that you are a danger to yourself or to others or are incompetent to manage your own affairs) OR have you ever been committed to a mental institution? (See Instructions for Question 11.f.)				Yes <input type="checkbox"/>	No <input type="checkbox"/>
g. Have you been discharged from the Armed Forces under dishonorable conditions?				Yes <input type="checkbox"/>	No <input type="checkbox"/>
h. Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner? (See Instructions for Question 11.h.)				Yes <input type="checkbox"/>	No <input type="checkbox"/>
i. Have you ever been convicted in any court of a misdemeanor crime of domestic violence? (See Instructions for Question 11.i.)				Yes <input type="checkbox"/>	No <input type="checkbox"/>
j. Have you ever renounced your United States citizenship?				Yes <input type="checkbox"/>	No <input type="checkbox"/>
k. Are you an alien illegally in the United States?				Yes <input type="checkbox"/>	No <input type="checkbox"/>
l. Are you an alien admitted to the United States under a nonimmigrant visa? (See Instructions for Question 11.l.) If you answered "no" in this question, do NOT respond to question 12 and proceed to question 13.				Yes <input type="checkbox"/>	No <input type="checkbox"/>
12. If you are an alien admitted to the United States under a nonimmigrant visa, do you fall within any of the exceptions set forth in the instructions? (If "yes," the licensee must complete question 20c.) (See Instructions for Question 12.) If question 11.l. is answered with a "no" response, then do NOT respond to question 12 and proceed to question 13.				Yes <input type="checkbox"/>	No <input type="checkbox"/>
13. What is your State of residence (if any)? (See Instructions for Question 13.)		14. What is your country of citizenship? (List/check more than one, if applicable. If you are a citizen of the United States, proceed to question 16.)		15. If you are not a citizen of the United States, what is your U.S.-issued alien number or admission number?	
		<input type="checkbox"/> United States of America			
		<input type="checkbox"/> Other (Specify)			

Rwe 11C-6.009





**Section B - Must Be Completed By Transferor (Seller)**

26. Manufacturer and/or Importer (If the manufacturer and/or importer are different, the FFL should include both.)	27. Model	28. Serial Number	29. Type and model of rifle, shotgun, or other firearm, etc. (See Instructions for question 29)	30. Caliber or Gauge
30a. Total Number of Firearms (Please handwrite by printing e.g., one, two, three, etc. Do not use numerals.)			30b. Is any part of this transaction? <input type="checkbox"/> Yes <input type="checkbox"/> No	

30c. For Use by FFL (See Instructions for Question 30c.)

**Complete ATF Form 3310.4 For Multiple Purchases of Handguns Within 5 Consecutive Business Days**

31. Trade/corporate name and address of transferor (seller) (Hand stamp may be used.)	32. Federal Firearms License Number (Must contain at least first three and last five digits of FFL Number X:XX-XXXXX.) (Hand stamp may be used.)
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**The Person Transferring The Firearm(s) Must Complete Questions 33-36. For Denied/Cancelled Transactions, The Person Who Completed Section B Must Complete Questions 33-35.**

I certify that my answers in Sections B and D are true, correct, and complete. I have read and understand the Notices, Instructions, and Definitions on ATF Form 4473. On the basis of: (1) the statements in Section A (and Section C if the transfer does not occur on the day Section A was completed); (2) my verification of the identification noted in question 20a (and my reverification at the time of transfer if the transfer does not occur on the day Section A was completed); and (3) the information in the current State Laws and Published Ordinances, it is my belief that it is not unlawful for me to sell, deliver, transport, or otherwise dispose of the firearm(s) listed on this form to the person identified in Section A.

33. Transferor's/Seller's Name (Please print)	34. Transferor's/Seller's Signature	35. Transferor's/Seller's Title	36. Date Transferred
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**NOTICES, INSTRUCTIONS AND DEFINITIONS**

**Purpose of the Form:** The information and certification on this form are designed so that a person licensed under 18 U.S.C. § 923 may determine if he or she may lawfully sell or deliver a firearm to the person identified in Section A, and to alert the buyer of certain restrictions on the receipt and possession of firearms. This form should only be used for sales or transfers where the seller is licensed under 18 U.S.C. § 923. The seller of a firearm must determine the lawfulness of the transaction and maintain proper records of the transaction. Consequently, the seller must be familiar with the provisions of 18 U.S.C. §§ 921-931 and the regulations in 27 CFR Part 478. In determining the lawfulness of the sale or delivery of a long gun (rifle or shotgun) to a resident of another State, the seller is presumed to know the applicable State laws and published ordinances in both the seller's State and the buyer's State.

After the seller has completed the firearms transaction, he or she must make the completed, original ATF Form 4473 (which includes the Notices, General Instructions, and Definitions), and any supporting documents, part of his or her permanent records. Such Forms 4473 must be retained for at least 20 years. Filing may be chronological (by date), alphabetical (by name), or numerical (by transaction serial number), as long as all of the seller's completed Forms 4473 are filed in the same manner. **FORMS 4473 FOR DENIED/CANCELLED TRANSFERS MUST BE RETAINED:** If the transfer of a firearm is denied/cancelled by NICS, or if for any other reason the transfer is not complete after a NICS check is initiated, the licensee must retain the ATF Form 4473 in his or her records for at least 5 years. Forms 4473 with respect to which a sale, delivery, or transfer did not take place shall be separately retained in alphabetical (by name) or chronological (by date of transferee's certification) order.

If you or the buyer discover that an ATF Form 4473 is incomplete or improperly completed after the firearm has been transferred, and you or the buyer wish to make a record of your discovery, then photocopy the inaccurate form and make any necessary additions or revisions to the photocopy. You only should make changes to Sections B and D. The buyer should only make changes to Sections A and C. Whoever made the changes should initial and date the changes. The corrected photocopy should be attached to the original Form 4473 and retained as part of your permanent records.

**Over-the-Counter Transaction:** The sale or other disposition of a firearm by a seller to a buyer, at the seller's licensed premises. This includes the sale or other disposition of a rifle or shotgun to a nonresident buyer on such premises.

**State Laws and Published Ordinances:** The publication (ATF P 5306.5) of State firearms laws and local ordinances ATF distributes to licensees.

**Exportation of Firearms:** The State or Commerce Departments may require you to obtain a license prior to export.

**Section A**

**Question 1. Transferee's Full Name:** The buyer must personally complete Section A of this form and certify (sign) that the answers are true, correct, and complete. However, if the buyer is unable to read and/or write, the answers (other than the signature) may be completed by another person, excluding the seller. Two persons (other than the seller) must then sign as witnesses to the buyer's answers and signature.

When the buyer of a firearm is a corporation, company, association, partnership, or other such business entity, an officer authorized to act on behalf of the

business must complete Section A of the form with his or her personal information, sign Section A, and attach a written statement, executed under penalties of perjury, stating: (A) the firearm is being acquired for the use of and will be the property of that business entity and (B) the name and address of that business entity. If the buyer's name in question 1 is illegible, the seller must print the buyer's name above the name written by the buyer.

**Question 2. Current Residence Address:** U.S. Postal abbreviations are acceptable. (e.g., St., Rd., Dr., Pk., NC, etc.). Address cannot be a post office box. County and Parish are one and the same.

If the buyer is a member of the Armed Forces on active duty acquiring a firearm in the State where his or her permanent duty station is located, but does not reside at his or her permanent duty station, the buyer must list both his or her permanent duty station address and his or her residence address in response to question 2. If you are a U.S. citizen with two States of residence, you should list your current residence address in response to question 2 (e.g., if you are buying a firearm while staying at your weekend home in State X, you should list your address in State X in response to question 2).

**Question 9. Unique Personal Identification Number (UPIN):** For purchasers approved to have information maintained about them in the FBI NICS Voluntary Appeal File, NICS will provide them with a Unique Personal Identification Number, which the buyer should record in question 9. The licensee may be asked to provide the UPIN to NICS or the State.

**Question 11.a. Actual Transferee/Buyer:** For purposes of this form, you are the actual transferee/buyer if you are purchasing the firearm for yourself or otherwise acquiring the firearm for yourself (e.g., redeeming the firearm from pawn/retrieving it from consignment, firearm raffle winner). You are also the actual transferee/buyer if you are legitimately purchasing the firearm as a gift for a third party. **ACTUAL TRANSFEREE/BUYER EXAMPLES:** Mr. Smith asks Mr. Jones to purchase a firearm for Mr. Smith. Mr. Smith gives Mr. Jones the money for the firearm. Mr. Jones is **NOT THE ACTUAL TRANSFEREE/BUYER** of the firearm and must answer "NO" to question 11.a. The licensee may not transfer the firearm to Mr. Jones. However, if Mr. Brown goes to buy a firearm with his own money to give to Mr. Black as a present, Mr. Brown is the actual transferee/buyer of the firearm and should answer "YES" to question 11.a. However, you may not transfer a firearm to any person you know or have reasonable cause to believe is prohibited under 18 U.S.C. § 922(g), (n), or (s). **Please note: EXCEPTION:** If you are picking up a repaired firearm(s) for another person, you are not required to answer 11.a. and may proceed to question 11.b.

**Question 11.b. - 11.i. Definition of Prohibited Person:** Generally, 18 U.S.C. § 922 prohibits the shipment, transportation, receipt, or possession in or affecting interstate commerce of a firearm by one who: has been convicted of a misdemeanor crime of domestic violence; has been convicted of a felony, or any other crime, punishable by imprisonment for a term exceeding one year (this does not include State misdemeanors punishable by imprisonment of two years or less); is a fugitive from justice; is an unlawful user of, or addicted to, marijuana or any depressant, stimulant, or narcotic drug, or any other controlled substance; has been adjudicated mentally defective or has been committed to a mental institution; has been discharged from the Armed Forces under dishonorable conditions; has renounced his or her U.S. citizenship; is an alien illegally in the United States or an alien admitted to the United States under a nonimmigrant visa; or is subject to certain restraining orders. Furthermore, section 922 prohibits the shipment, transportation, or receipt in or affecting interstate commerce of a firearm by one who is under indictment or information for a felony, or any other crime, punishable by imprisonment for a term exceeding one year.

**Question 11.b. Under Indictment or Information or Convicted in any Court:** An indictment, information, or conviction in any Federal, State, or local court. An information is a formal accusation of a crime verified by a prosecutor.

**EXCEPTION to 11.c. and 11.i.:** A person who has been convicted of a felony, or any other crime, for which the judge could have imprisoned the person for more than one year, or who has been convicted of a misdemeanor crime of domestic violence, is not prohibited from purchasing, receiving, or possessing a firearm if: (1) under the law of

the jurisdiction where the conviction occurred, the person has been pardoned, the conviction has been expunged or set aside, or the person has had their civil rights (the right to vote, sit on a jury, and hold public office) taken away and later restored AND (2) the person is not prohibited by the law of the jurisdiction where the conviction occurred from receiving or possessing firearms. Persons subject to this exception should answer "no" to 11.c. or 11.i., as applicable.

**Question 11.f. Adjudicated Mentally Defective:** A determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease: (1) is a danger to himself or to others; or (2) lacks the mental capacity to contract or manage his own affairs. This term shall include: (1) a finding of insanity by a court in a criminal case; and (2) Those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility.

**Committed to a Mental Institution:** A formal commitment of a person to a mental institution by a court, board, commission, or other lawful authority. The term includes a commitment to a mental institution involuntarily. The term includes commitment for mental defectiveness or mental illness. It also includes commitments for other reasons, such as for drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution. Please also refer to Question 11.c. for the definition of a prohibited person.

**EXCEPTION to 11.f. NICS Improvement Amendments Act of 2007:** A person who has been adjudicated as a mental defective or committed to a mental institution is not prohibited if: (1) the person was adjudicated or committed by a department or agency of the Federal Government, such as the United States Department of Veteran's Affairs ("VA") (as opposed to a State court, State board, or other lawful State authority); and (2) either: (a) the person's adjudication or commitment for mental incompetency was set-aside or expunged by the adjudicating/committing agency; (b) the person has been fully released or discharged from all mandatory treatment, supervision, or monitoring by the agency; or (c) the person was found by the agency to no longer suffer from the mental health condition that served as the basis of the initial adjudication. **Persons who fit this exception should answer "no" to Item 11.f.** This exception does not apply to any person who was adjudicated to be not guilty by reason of insanity, or based on lack of mental responsibility, or found incompetent to stand trial, in any criminal case or under the Uniform Code of Military Justice.

**Question 11.h. Definition of Restraining Order:** Under 18 U.S.C. § 922, firearms may not be sold to or received by persons subject to a court order that: (A) was issued after a hearing which the person received actual notice of and had an opportunity to participate in; (B) restrains such person from harassing, stalking, or threatening an intimate partner or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and (C) (i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury. An "intimate partner" of a person is: the spouse or former spouse of the person, the parent of a child of the person, or an individual who cohabitates or cohabitating with the person.

**Question 11.i. Definition of Misdemeanor Crime of Domestic Violence:** A Federal, State, local, or tribal offense that is a misdemeanor under Federal, State, or tribal law and has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with, or has cohabitated with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim. The term includes all misdemeanors that have as an element the use or attempted use of physical force or the threatened use of a deadly weapon (e.g., assault and battery), if the offense is committed by one of the defined parties. (See Exception to 11.c. and 11.i.) A person who has been convicted of a misdemeanor crime of domestic violence also is not prohibited unless: (1) the person was represented by a lawyer or gave up the right to a lawyer; or (2) if the person was entitled to a jury, was tried by a jury, or gave up the right to a jury trial. Persons subject to this exception should answer "no" to 11.i.

**Question 11.l.** An alien admitted to the United States under a nonimmigrant visa includes, among others, persons visiting the United States temporarily for business or pleasure, persons studying in the United States who maintain a residence abroad, and certain temporary foreign workers. The definition does NOT include permanent resident aliens nor does it apply to nonimmigrant aliens admitted to the United States pursuant to either the Visa Waiver Program or to regulations otherwise exempting them from visa requirements.

An alien admitted to the United States under a nonimmigrant visa who responds "yes" to question 11.l. must provide a response to question 12 indicating whether he/she qualifies under an exception.

**Question 12. Exceptions to the Nonimmigrant Alien Response:** An alien admitted to the United States under a nonimmigrant visa is not prohibited from purchasing, receiving, or possessing a firearm if the alien: (1) is in possession of a hunting license or permit lawfully issued by the Federal Government, a State, or local government, or an Indian tribe federally recognized by the Bureau of Indian Affairs, which is valid and unexpired; (2) was admitted to the United States for lawful hunting or sporting purposes; (3) has received a waiver from the prohibition from the Attorney General of the United States; (4) is an official representative of a foreign government who is accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; (5) is en route to or from another country to which that alien is accredited; (6) is an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or (7) is a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

Persons subject to one of these exceptions should answer "yes" to questions 11.l. and 12 and provide documentation such as a copy of the hunting license or letter granting the waiver, which must be recorded in 20.c. If the transferee (buyer) answered "yes" to this question, the licensee must complete 20.c.

The seller should verify supporting documentation provided by the purchaser and must attach a copy of the provided documentation to this ATF Form 4473, Firearms Transaction Record.

**Question 13. State of Residence:** The State in which an individual resides. An individual resides in a State if he or she is present in a State with the intention of making a home in that State. If an individual is a member of the Armed Forces on active duty, his or her State of residence also is the State in which his or her permanent duty station is located.

If you are a U.S. citizen with two States of residence, you should list your current residence address in response to question 2 (e.g., if you are buying a firearm while staying at your weekend home in State X, you should list your address in State X in response to question 2.)

**Question 16. Certification Definition of Engaged in the Business:** Under 18 U.S.C. § 922 (a)(1), it is unlawful for a person to engage in the business of dealing in firearms without a license. A person is engaged in the business of dealing in firearms if he or she devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms. A license is not required of a person who only makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his or her personal collection of firearms.

## Section B

**Question 18. Type of Firearm(s):** Check all boxes that apply. "Other" refers to frames, receivers and other firearms that are not either handguns or long guns (rifles or shotguns), such as firearms having a pistol grip that expel a shotgun shell, or National Firearms Act (NFA) firearms.

If a frame or receiver can only be made into a long gun (rifle or shotgun), it is still a frame or receiver not a handgun or long gun. However, they still are "firearms" by definition, and subject to the same

GCA limitations as any other firearms. See Section 921(a)(3)(H), 18 U.S.C. Section 922(b)(1) makes it unlawful for a licensee to sell any firearm other than a shotgun or rifle to any person under the age of 21. Since a frame or receiver for a firearm, to include one that can only be made into a long gun, is a "firearm other than a shotgun or rifle," it cannot be transferred to anyone under the age of 21. Also, note that multiple sales forms are not required for frames or receivers of any firearms, or pistol grip shotguns, since they are not "pistols or revolvers" under Section 923(g)(3)(a).

**Question 19. Gun Shows:** If sale at gun show or other qualifying event sponsored by any national, State, or local organization, as authorized by 27 CFR § 478.106, the seller must record the name of event and the location (city and State) of the sale in question 19.

**Question 20a. Identification:** List issuing authority (e.g., State, County or Municipality) and type of identification presented (e.g., Virginia driver's license (VA DL), or other valid government-issued identification).

**Know Your Customer:** Before a licensee may sell or deliver a firearm to a nonlicensee, the licensee must establish the identity, place of residence, and age of the buyer. The buyer must provide a valid government-issued photo identification to the seller that contains the buyer's name, residence address, and date of birth. The licensee must record the type, identification number, and expiration date (if any) of the identification in question 20.a. A driver's license or an identification card issued by a State in place of a license is acceptable. Social Security cards are not acceptable because no address, date of birth, or photograph is shown on the cards. A combination of government-issued documents may be provided. For example, if a U.S. citizen has two States of residence and is trying to buy a handgun in State X, he may provide a driver's license (showing his name, date of birth, and photograph) issued by State Y and another government-issued document (such as a tax document) from State X showing his residence address. If the buyer is a member of the Armed Forces on active duty acquiring a firearm in the State where his or her permanent duty station is located, but he or she has a driver's license from another State, you should list the buyer's military identification card and official orders showing where his or her permanent duty station is located in response to question 20.a.

**Question 20.b. Alternate Documentation:** Licensees may accept a combination of valid government-issued documents to satisfy the identification document requirements of the law. The required valid government-issued photo identification document bearing the name, photograph, and date of birth of transferee may be supplemented by another valid, government-issued document showing the transferee's residence address. This alternate documentation should be recorded in question 20.b., with issuing authority and type of identification presented. A combination of government-issued documents may be provided. For example, if a U.S. citizen has two States of residence and is trying to buy a handgun in State X, he may provide a driver's license (showing his name, date of birth, and photograph) issued by State Y and another government-issued document (such as a tax document) from State X showing his residence address.

**Question 20c. Documentation for Aliens Admitted to the United States Under a Nonimmigrant Visa:** See instructions for Question 11.l. Types of acceptable documents would include a valid hunting license lawfully issued in the United States or a letter from the U.S. Attorney General granting a waiver.

**Question(s) 21, 22, 23. NICS BACKGROUND CHECKS:** 18 U.S.C. § 922(t) requires that prior to transferring any firearm to an unlicensed person, a licensed importer, manufacturer, or dealer must first contact the National Instant Criminal Background Check System (NICS). NICS will advise the licensee whether the system finds any information that the purchaser is prohibited by law from possessing or receiving a firearm. For purposes of this form, contacts to NICS include contacts to State agencies designated to conduct NICS checks for the Federal Government. **WARNING:** Any seller who transfers a firearm to any person they know or have reasonable cause to believe is prohibited from receiving or possessing a firearm violates the law, even if the seller has complied with the background check requirements of the Brady law.

After the buyer has completed Section A of the form and the licensee has completed questions 18-20, and before transferring the firearm, the licensee must contact NICS (read below for NICS check exceptions.) However, the licensee should NOT contact NICS and should stop the transaction if: the

buyer answers "no" to question 1.a.; the buyer answers "yes" to any question in 11.b.-11.l. unless the buyer only has answered "yes" to question 11.l. and also answers "yes" to question 12; or the buyer is unable to provide the documentation required by question 20.a, b, or c.

At the time that NICS is contacted, the licensee must record in question 21.a-c: the date of contact, the NICS (or State) transaction number, and the initial response provided by NICS or the State. The licensee may record the Missing Disposition Information (MDI) date in 21.c. that NICS provides for delayed transactions (States do not provide this number). If the licensee receives a "delayed" response, before transferring the firearm, the licensee must record in question 21.d. any response later provided by NICS or the State or that no resolution was provided within 3 business days. If the licensee receives a response from NICS or the State after the firearm has been transferred, he or she must record this information in question 21.e. Note: States acting as points of contact for NICS checks may use terms other than "proceed," "delayed," "cancelled," or "denied." In such cases, the licensee should check the box that corresponds to the State's response. Some States may not provide a transaction number for denials. However, if a firearm is transferred within the three business day period, a transaction number is required.

**NICS Responses:** If NICS provides a "proceed" response, the transaction may proceed. If NICS provides a "cancelled" response, the seller is prohibited from transferring the firearm to the buyer. If NICS provides a "denied" response, the seller is prohibited from transferring the firearm to the buyer. If NICS provides a "delayed" response, the seller is prohibited from transferring the firearm unless 3 business days have elapsed and, before the transfer, NICS or the State has not advised the seller that the buyer's receipt or possession of the firearm would be in violation of law. (See 27 CFR § 478.102(a) for an example of how to calculate 3 business days.) If NICS provides a "delayed" response, NICS also will provide a Missing Disposition Information (MDI) date that calculates the 3 business days and reflects when the firearm(s) can be transferred under Federal law. States may not provide an MDI date. Please note State law may impose a waiting period on transferring firearms.

**EXCEPTIONS TO NICS CHECK:** A NICS check is not required if the transfer qualifies for any of the exceptions in 27 CFR § 478.102(d). Generally these include: (a) transfers where the buyer has presented the licensee with a permit or license that allows the buyer to possess, acquire, or carry a firearm, and the permit has been recognized by ATF as a valid alternative to the NICS check requirement; (b) transfers of National Firearms Act weapons approved by ATF; or (c) transfers verified by ATF as exempt because compliance with the NICS check requirements is impracticable. See 27 CFR § 478.102(d) for a detailed explanation. If the transfer qualifies for one of these exceptions, the licensee must obtain the documentation required by 27 CFR § 478.131. A firearm must not be transferred to any buyer who fails to provide such documentation.

### Section C

**Question 24 and 25, Transfer on a Different Day and Recertification:** If the transfer takes place on a different day from the date that the buyer signed Section A, the licensee must again check the photo identification of the buyer at the time of transfer, and the buyer must complete the recertification in Section C at the time of transfer.

### Section D

Immediately prior to transferring the firearm, the seller must complete all of the questions in Section D. In addition to completing this form, the seller must report any multiple sale or other disposition of pistols or revolver on ATF Form 3310.4 (see 27 CFR § 478.126a).

**Question(s) 26, 27, 28, 29 and 30, Firearm(s) Description:** These blocks should be completed with the firearm(s) information. Firearms manufactured after 1968 should all be marked with a serial number. Should you acquire a firearm that is not marked with a serial number, you may answer question 28 with "NSN" (No Serial Number), "N/A" or "None."

If more than five firearms are involved in a transaction, the information required by Section D, questions 26-30, must be provided for the additional firearms on a separate sheet of paper, which must be attached to the ATF Form 4473 covering the transaction.

**Types of firearms include:** pistol, revolver, rifle, shotgun, receiver, frame and other firearms that are not either handguns or long guns (rifles or shotguns), such as firearms having a pistol grip that expel a shotgun shell or National Firearms Act (NFA) firearms.

Additional firearms purchases by the same buyer may not be added to the form after the seller has signed and dated it. A buyer who wishes to purchase additional firearms after the seller has signed and dated the form must complete a new ATF Form 4473. The seller must conduct a new NICS check.

**Question 30c.** This box is for the FFL's use in recording any information the licensee finds necessary to conduct business.

**Question 32 Federal Firearms License Number:** Must contain at least the first three and last five digits of the FFL number, for instance X-XX-XXXXX.

**Question 33-35 Transferor/Sellers Information:** For "denied" and "cancelled" NICS transactions, the person who completed Section B must complete Section D, questions 33-35.

### Privacy Act Information

Solicitation of this information is authorized under 18 U.S.C. § 921(a)(6). Disclosure of the individual's Social Security number is voluntary. The number may be used to verify the buyer's identity.

### Paperwork Reduction Act Notice

The information required on this form is in accordance with the Paperwork Reduction Act of 1995. The purpose of the information is to determine the eligibility of the transferee to receive firearms under Federal law. The information is subject to inspection by ATF officers and is required by 18 U.S.C. §§ 922 and 923.

The estimated average burden associated with this collection is 30 minutes per respondent or recordkeeper, depending on individual circumstances. Comments about the accuracy of this burden estimate and suggestions for reducing it should be directed to Reports Management Officer, Document Services Section, Bureau of Alcohol, Tobacco, Firearms and Explosives, Washington, DC 20226.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Confidentiality is not assured.

**PLEASE TYPE OR PRINT**

**TO BE COMPLETED BY DEALER:**

Dealer Name \_\_\_\_\_ Non-Approval # \_\_\_\_\_ Date of Non-Approval \_\_\_\_\_

Buyer's Name \_\_\_\_\_

**TO BE COMPLETED BY BUYER:**

\*Mailing Address (Please indicate the address you would like your letter mailed to) \_\_\_\_\_

\*City, State, and Zip Code \_\_\_\_\_ \*Telephone # \_\_\_\_\_

\*Place of Birth \_\_\_\_\_ \*Non U.S. Citizens: Alien Registration Number (or Admissions Number) \_\_\_\_\_

\*Required fields. Failure to complete any required field may result in a rejection.  
Please use the above information to conduct a criminal history check.

\*Signature \_\_\_\_\_ \*Date \_\_\_\_\_

**LAW ENFORCEMENT USE:  
OFFICIAL TAKING FINGERPRINTS**

**TO BE COMPLETED BY BUYER / PERSON  
BEING FINGERPRINTED**

NAME: \_\_\_\_\_

\*NAME: \_\_\_\_\_

BADGE #: \_\_\_\_\_ AGENCY: \_\_\_\_\_

\*SOC. SEC. #: \_\_\_\_\_

TELEPHONE #: \_\_\_\_\_

\*DOB: \_\_\_\_\_ \*RACE: \_\_\_\_\_ \*SEX: \_\_\_\_\_

1. R. Thumb	2. R. Index	3. R. Middle	4. R. Ring	5. R. Little
6. L. Thumb	7. L. Index	8. L. Middle	9. L. Ring	10. L. Little
Left Four Fingers Taken Simultaneously		L. Thumb	R. Thumb	Right Four Fingers Taken Simultaneously

Mail form to the FDLE Firearm Purchase Program, P.O. Box 1488, Tallahassee, FL 32302-1488.

## FIREARM PURCHASE PROGRAM NON-APPROVAL FORM

All individuals not approved to purchase a firearm have the right to appeal their non-approval. The non-approval indicated that either you or an individual with a similar name and identification features meets the criteria for non-approval. If you believe that you are not the individual whose record is on file or your criminal history is incorrect and you want to appeal your non-approval to buy a firearm, **you must submit this completed form and be fingerprinted.**

The fingerprinting must be done by a law enforcement agency. Many of the local agencies charge for this service, and you will be required to pay this fee. When you are fingerprinted, you must provide identification (Florida driver's license, or other official identification containing a photograph) to the law enforcement agency before being fingerprinted. The law enforcement agency will use this identification information to complete the fingerprint portion of the form.

After completing this form and being fingerprinted, mail the form to the **FDLE Firearm Purchase Program, P.O. Box 1489, Tallahassee, FL 32302-1489**, for a complete record check. There is no fee for this service from FDLE. If the record check establishes that you are eligible to purchase a firearm, a letter will be forwarded to you with an approval number. The original letter must be given to the dealer of your choice and will be maintained by the dealer as part of the record of the transaction.

**The appeal must be filed within 60 days from the issuance of the non-approval. In order for FDLE to process your appeal after 60 days, a licensed firearm dealer must conduct another record check.**

**Alternatively, you may request the FBI National Instant Background Check System (NICS) to process your appeal, after 60 days, to do this, contact the FBI at 1-877-324-6427.**

### APPEAL FORM INSTRUCTIONS

When a buyer receives a non-approval or a pending non-approval, he/she will have the right to appeal formally. A non-approval means that the buyer's identification information matched an individual whose record meets the non-approval criteria. If the buyer believes he/she is not the individual whose record is on file or his/her criminal history is incorrect, he/she should follow these appeal guidelines.

The dealer should complete the dealer's portion of the form providing the following:

Dealer Name: This should be the name provided on the Dealer Information Form

Non-Approval Number: Provide the complete number as given by the FDLE operator including the letter following the number

Date Non-Approved: Date the Non-Approval number was provided by FDLE (MM/DD/YYYY) order.

Buyer's Name: Provide the buyer's complete name as found on the identification presented.

The buyer should complete the remaining portion of the form. Once the form has been completed, the buyer should go to a law enforcement agency and be fingerprinted on the fingerprint form on the back of this form. The completed appeal form, including the fingerprints, should then be sent to the FDLE by the buyer as explained on the form itself.

The FDLE will process the appeal request and advise the buyer of its findings in writing. If the buyer is advised that his/her request is non-approved and he/she wishes to pursue his/her non-approval further, he/she should follow the procedures as outlined in Chapter 11C-8, Florida Administrative Code (copy available). If the buyer is advised by FDLE that he/she is approved to purchase a firearm, that notification must be taken to the dealer of his/her choice, within the time period established in the letter, to purchase a firearm. The dealer must attach the original notification to the ATF 4473 Form. But need not call to request another record check for this transaction.

**To check the status of an appeal, contact the Firearm Purchase Program at (850) 410-8139.**

The completion time of appeals varies depending on the amount of information that must be verified with other agencies. Once your appeal has been completed, a written response will be mailed to the address provided on the front of this form.

Mail form to the FDLE Firearm Purchase Program, P.O. Box 1489, Tallahassee, FL 32302-1489. DLE

Form 40-020 pursuant to Rule 11C-6.009 Firearm Purchase Non-Approval Appeal Form Revised 05/2016 4/2012 Effective 09/2016



Florida Department of Law Enforcement  
Criminal Justice Information Services Division/User Services Bureau

**Volunteer & Employee Criminal History System (VECHS)  
Application for Qualified Entities**

Criminal History Record Checks pursuant to the National Child Protection Act of 1993, as amended,  
and Section 943.0542, Florida Statutes (850) 410-8324 or publicrecords VECHS@fdle.state.fl.us

ENTITY NAME: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_  
NUMBER STREET NAME UNIT # CITY STATE ZIP CODE

PHYSICAL ADDRESS: \_\_\_\_\_  
NUMBER STREET NAME UNIT # CITY STATE ZIP CODE

COUNTY: \_\_\_\_\_ PHONE: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ EXT. \_\_\_\_\_ FAX: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

ENTITY HEAD: \_\_\_\_\_ E-MAIL ADDRESS: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ E-MAIL ADDRESS: \_\_\_\_\_

LEGAL TYPE OF ENTITY:  Governmental (Public)  Private, Non-Profit  Private, for Profit

Please check all that apply to the service(s) provided by your entity to children, the elderly or disabled:

Type of Person(s)	Care or Treatment	Education, Training or Instruction	Supervision	Recreation	Care Placement
Child					
Elderly					
Disabled					

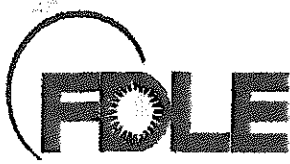
**SUMMARY OF TYPE OF SERVICES YOUR ENTITY PROVIDES - Please describe in detail the services your entity will provide and how those services will directly impact children, the elderly or disabled: (continue on separate page, if necessary):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Do you plan to request state & national criminal history checks through the VECHS Program on YOUR current or prospective FLORIDA employees, volunteers, contractors and vendors? YES NO If no, please explain (continue on separate page, if necessary):

\_\_\_\_\_  
\_\_\_\_\_

(Contractors or vendors may be checked through the VECHS Program, if they have or may have unsupervised access to the children, elderly, or disabled persons for whom a qualified entity provides care. Click [here](#) to view the Fee Schedule for the VECHS Program.)



Florida Department of Law Enforcement  
Criminal Justice Information Services Division/User Services Bureau

**Volunteer & Employee Criminal History System (VECHS)**  
**Application for Qualified Entities**

Criminal History Record Checks pursuant to the National Child Protection Act of 1993, as amended, and Section 943.0542, Florida Statutes (850) 410-8324 or publicrecords VECHS@fdle.state.fl.us

**APPLICATION CONTINUED:**

Are you currently required by law to obtain state and national (Level 2) criminal history record checks on any of your current or prospective employees, volunteers, contractors or vendors?    YES    NO

If yes, what state agency monitors your entity and these required record checks? Please check all that apply:

<input type="checkbox"/>	<u>Florida Department of Children and Families (DCF)</u>
<input type="checkbox"/>	<u>Florida Department of Education (DOE)</u>
<input type="checkbox"/>	<u>Florida Agency for Healthcare Administration (ACHA)</u>
<input type="checkbox"/>	<u>Florida Department of Elder Affairs (DOEA)</u>
<input type="checkbox"/>	Other (Please explain):
<input type="checkbox"/>	Other (Please explain):

Do you understand that current or prospective employees, volunteers, contractors or vendors that are otherwise statutorily required to receive a state and national (Level 2) background check are not eligible for the VECHS Program?    YES    NO

It is your responsibility to determine if your entity is otherwise statutorily required to complete background investigations on current or prospective employees, volunteers, contractors or vendors. Please verify your statutory requirements for background investigations with one of the above agencies or Florida Statutes before submitting your application. If you have contacted these agencies and still have questions regarding eligibility, please contact FDLE VECHS Program at (850) 410-8324 or publicrecords VECHS@fdle.state.fl.us .

SIGNATURE OF ENTITY HEAD: \_\_\_\_\_ DATE: \_\_\_\_\_

Please mail this completed application, user agreement, and CWCS registration form to FDLE at the address below.  
Applications will not be accepted via email or fax.

FLORIDA DEPARTMENT OF LAW ENFORCEMENT  
USER SERVICES BUREAU - ATTN: VECHS UNIT - P.O. BOX 1489  
TALLAHASSEE, FL. 32302-1489  
(850) 410-8324

References: Title 42 U.S.C. Ch.67, Sub.Ch.VI, §5119(a) and Florida Statute §943.0542

Livescan devices allow for the electronic submission of fingerprints and descriptive data to FDLE for processing. Qualified entities must first complete and submit a Civil Workflow Control System (CWCS) Registration form to FDLE for processing. Once your CWCS Registration form has been received and approved by FDLE, you will receive an e-mail confirmation stating your entity is authorized to submit fingerprints electronically. A list of approved service providers and Livescan vendors can be found at www.fdle.state.fl.us/backgroundchecks.



STATE OF FLORIDA  
DEPARTMENT OF LAW ENFORCEMENT  
CHAPTER 11C-6, FLORIDA ADMINISTRATIVE CODE  
AMENDING RULES 11C-6.004, 11C-6.009, and 11C-6.010  
CRIMINAL HISTORY RECORDS DISSEMINATION POLICY  
SUMMARY OF THE RULE

11C-6.004 is amended make grammatical changes to be consistent with statute and to reflect that fingerprints must be submitted electronically in accordance with the Federal Bureau of Investigation requirements. The amendments also reflect changes to the Volunteer and Employee Background Checks (VECHS) Qualified Entity Application and the VECHS Dissemination Log.

11C-6.009 is amended to be consistent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) rules for licensing firearms dealers. Changes also include removing reference to form number FDLE 40-019, since the form is not used and no longer exists, and extending appeal timeframes from 21 calendar days to 60 calendar days as a direct benefit to the public.

11C-6.010 is amended to move existing rule language in 11C-6.010(8) to 11C-6.010(2). Replacing references to Automated Fingerprint Identification System (AFIS) to Biometric Identification System (BIS). Adding reference to the Care Provider Clearinghouse retained applicants in 11C-6.010(7). Correcting statutory reference in 11C-6.010(1).

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

The rule language changes are requested to be consistent with statutory language and to update forms promulgated in rule for VECHS qualified entities requesting criminal history record checks under the National Child Protection Act.

Removing redundant rule language from 11C-6.009(6) and modifying 11C-6.009(7) to be more consistent with current policy. Updating references to ATF form F-4473 to reflect updates made by ATF in 2012. Extending appeal timeframes from 21 calendar days to 60 calendar days as a direct benefit to the public. Requiring dealers to maintain up-to-date telephone contact information with FDLE in the interest of public safety while researching conditional non-approvals.

Move existing rule language to another section within the existing rule for better organization. The Biometric Identification System replaced the AFIS system a few years ago and it includes other biometrics in addition to fingerprints like palm prints. The Care Provider Clearinghouse retains applicant fingerprints for a period of 5 years and is subject to the same fee schedule as non-instructional contractors outlined in 11C-6.010(7).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND  
LEGISLATIVE RATIFICATION

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the

information expressly relied upon and described herein: The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment.

#### FEDERAL COMPARISON STATEMENT

There are no federal requirements dealing with this topic.

#### SUMMARY OF HEARING

FDLE received no requests for a public hearing and no written comments were submitted.

Notice of Proposed Rule

DEPARTMENT OF LAW ENFORCEMENT  
Division of Criminal Justice Information Systems

RULE NO.: 11C-6.004, 11C-6.009, and 11C-6.010

RULE TITLE: Procedures for Requesting Criminal History Records, Sale and Delivery of Firearms, and Retention of Applicant Fingerprints

PURPOSE AND EFFECT: 11C-6.004 changes are requested to be consistent with statutory language and to update forms promulgated in rule for Volunteer and Employee Background Checks (VECHS) qualified entities requesting criminal history record checks under the National Child Protection Act..

11C-6.009 is amended to be consistent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) rules for licensing firearms dealers. Changes also include removing reference to form number FDLE 40-019 since the form is not used and no longer exists and extending appeal timeframes from 21 calendar days to 60 calendar days as a direct benefit to the public and updates references to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) form F-4473.

11C-6.010 is amended to move existing rule language in 11C-6.010(8) to 11C-6.010(2). Replacing references to Automated Fingerprint Identification System (AFIS) to Biometric Identification System (BIS). Adding reference to the Care Provider Clearinghouse retained applicants in 11C-6.010(7). Correcting statutory reference in 11C-6.010(1).

SUMMARY: 11C-6.004 is amended make grammatical changes to be consistent with statute and to reflect that fingerprints must be submitted electronically in accordance with the Federal Bureau of Investigation requirements. The amendments also reflect changes to the Volunteer and Employee Background Checks (VECHS) Qualified Entity Application and the VECHS Dissemination Log.

11C-6.009 is amended to be consistent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) rules for licensing firearms dealers. Changes also include removing reference to form number FDLE 40-019 since the form is not used and no longer exists and extending appeal timeframes from 21 calendar days to 60 calendar days as a direct benefit to the public and updates references to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) form F-4473..

11C-6.010 is amended to move existing rule language in 11C-6.010(8) to 11C-6.010(2). Replacing references to Automated Fingerprint Identification System (AFIS) to Biometric Identification System (BIS). Adding reference to the Care Provider Clearinghouse retained applicants in 11C-6.010(7). Correcting statutory reference in 11C-6.010(1).

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: OTHER RULES INCORPORATING THIS RULE: N/A. EFFECT ON THOSE OTHER RULES: N/A. The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment. Any person who wishes to provide information regarding a statement of estimated regulatory costs, or

provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**RULEMAKING AUTHORITY:** 943.03(4), 943.053(3), 943.0542, 943.056, 790.065, 943.03(4), 943.05(2)(g-h), 1012.32(3), 1012.465, 1012.56, FS.

**LAW IMPLEMENTED:** 943.053(3), 943.0542, 943.056, 790.065 FS., Title 18, U.S.C., Chapter 44, and Title 27, C.F.R., Part 178, 432.12, 496.4101(3)(c), 550.105(10)(c), 551.107(7)(c), 560.141(1)(c)3, 559.555(2)3, 744.3135(4)(b), 943.13(5), 985.644(3)(c), 1002.395(6)(b)3, 1002.421(3)(a), 1012.32(3), 1012.465, 1012.467, 1012.56, FS.

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:**

**DATE AND TIME:** Wednesday, April 27, 2016 at 10 a.m..

**PLACE:** Florida Department of Law Enforcement, Criminal Justice Information Services, 2331 Phillips Road, Tallahassee, Florida 32308.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Timothy Giesecke at 850-410-8113, or [timothygiesecke@fdle.state.fl.us](mailto:timothygiesecke@fdle.state.fl.us), or write to Florida Department of Law Enforcement, Criminal Justice Information Services, 2331 Phillips Road, Tallahassee, Florida 32308.. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Timothy Giesecke at 850-410-8113, or [timothygiesecke@fdle.state.fl.us](mailto:timothygiesecke@fdle.state.fl.us), or write to Florida Department of Law Enforcement, Criminal Justice Information Services, 2331 Phillips Road, Tallahassee, Florida 32308.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Bureau Chief Timothy Giesecke

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** Governor and Cabinet

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** June 9, 2016

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR:** October 30, 2015

THE FULL TEXT OF THE PROPOSED RULE IS:

**11C-6.004 Procedures for Requesting Criminal History Records.**

(1) through (2) No change.

(3) Fees.

(a) There shall be no charge for conducting record checks under paragraphs (2)(a) through (c).

(b) As provided in Section 943.053(3)(b), F.S., a processing fee of \$24 shall be charged for each subject inquired upon under paragraphs (2)(d) through (f), except that ~~the fee of \$8 shall be charged for each subject inquired upon for the guardian ad litem program, and~~ vendors of the Department of Children and Families ~~Family Services, the Department of Juvenile Justice, and the Department of Elderly Affairs;~~ shall be \$8 for each name submitted; ~~the fee for a state criminal history provided for application processing as required by law to be performed a fee of \$15 shall be charged for each subject inquired upon pursuant to a state criminal history record check required by law to be performed by the Department of Agriculture and Consumer Services; shall be \$15 for each name submitted; and the a fee for requests under Section 943.0542, F.S., which implements the of \$18 shall be charged for each volunteer subject inquired upon under the National Child Protection Act of 1993, shall be \$18 for each volunteer name submitted. The state offices of the Public Defender shall not be assessed a fee for as amended; and no fee shall be charged for Florida criminal history information or wanted person information requested by the state offices of the Public Defender.~~

(c) through (d) No change.

(4) Entities applying to the Florida Department of Law Enforcement to be qualified to receive criminal history records under the National Child Protection Act of 1993, as amended, must first complete and submit the following documents to the Florida Department of Law Enforcement, in accordance with the instructions provided: VECHS Qualified Entity Application – Volunteer & Employee Criminal History System (NCPA 1; Rev. ~~January 1, 2001~~ May 2015). Entities that are qualified through the Florida Department of Law Enforcement to receive criminal history records under the National Child Protection Act must submit complete an electronic fingerprints electronically submission for each person ~~and submit~~ ~~it~~ to the Florida Department of Law Enforcement for each request for a criminal history record check. Qualified entities that release to another qualified entity any criminal history record information received pursuant to the National Child Protection Act must complete and maintain the following document, in accordance with the instructions provided: VECHS Dissemination Log – Volunteer & Employee Criminal History System (NCPA 4, Rev. ~~January 1, 2001~~ May 2015). These forms are incorporated by reference.

*Rulemaking Authority 943.03(4), 943.053(3), 943.0542, 943.056 FS. Law Implemented 943.053(3), 943.0542, 943.056 FS. History–New 12-30-76, Amended 11-7-83, Formerly 11C-6.04, Amended 9-1-88, 4-1-93, 7-7-99, 8-22-00, 7-29-01, 12-3-03, 6-9-08, 6-3-10, 5-21-12, 3-13-13, 5-29-14, \_\_\_\_\_.*

**11C-6.009 Sale and Delivery of Firearms.**

(1) For a federally licensed firearm dealer (including licensed firearm importers, licensed firearm manufacturers and licensed firearm dealers pursuant to Title 27, C.F.R., Part 178) to complete a firearm transaction to another person, other than a licensed importer, licensed manufacturer, licensed dealer or licensed collector, a United States Treasury Department, Bureau of Alcohol, Tobacco and Firearms (ATF) form ATF F-4473 [5300.9] Part 1 (~~40/04~~ 04/12) (Firearms Transaction Record) incorporated here by reference, must be completed. These forms are available from the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153. The completion of the ATF F-4473 [5300.9] Part 1 (~~40/04~~ 04/12) form must comply with Title 27, C.F.R. Part 178, Section 178.124, and with Section 790.065, F.S.

(2) Section A of the ATF F-4473 [5300.9] Part 1 (~~40/04~~ 04/12) form must be completed by the potential buyer or transferee. The dealer must ensure that items 9-13 are completed by the buyer prior to the dealer contacting the Florida Department of Law Enforcement (FDLE). In addition to the above requirements, the social security number of the potential buyer or transferee may be recorded in block

number 78 of ATF F-4473 [5300.9] Part 1 (~~10/01~~ 04/12) form, ~~along with the additional types and dates of identification for any person who is not a United States citizen (i.e., utility bills or lease agreements).~~ The dealer is required to advise the potential buyer that the disclosure of his or her social security number is voluntary, of the authority for the disclosure, and of the use to be made of the number.

(3) All federally licensed importers, licensed manufacturers, and licensed firearm dealers in Florida who intend to sell a firearm to another non-licensed person must provide dealership information to the FDLE and obtain an identification number and a toll-free telephone number. The identification number and toll-free telephone number must be used only by or for the dealer and must be used to obtain an approval number before a firearm can be transferred. ~~The Florida Firearm Dealer Information Form (form number FDLE 40-019, February 1, 1991), incorporated here by reference, may be obtained from:~~

~~Florida Department of Law Enforcement~~

~~Firearm Purchase Program~~

~~Post Office Box 1489~~

~~Tallahassee, Florida 32302-1489~~

~~Telephone Number: (850) 410-8139~~

(4) No change..

(5) Using the provided toll-free telephone number or by other electronic means in addition to the telephone, the dealer must contact FDLE immediately prior to each transaction involving the transfer of one or more firearms to obtain an approval number to complete the firearm transaction. The dealer will provide the dealer's identification number and all identification data of the potential buyer/transferee as contained on ATF form F-4473 [5300.9] Part 1 (~~10/01~~ 04/12) to FDLE.

(6) ~~FDLE will provide an approval, non approval, conditional approval, conditional non approval number or pending non approval to the dealer based on the criminal history record of the potential buyer or transferee.~~ Based on the status of the criminal history record, FDLE will provide an approval or non-approval number to the dealer during the call when possible or by return call or within the specified time frame as contained in Section 790.065, F.S. Unless compliance with the requirements of this section is excused as provided in Section 790.065(10), F.S., if the dealer has not received an approval or non-approval number, conditional or otherwise, from FDLE within the time frame specified, the dealer must contact FDLE to inquire about the status of the request for approval, prior to completing the transaction. If a conditional non-approval number is issued, FDLE will attempt to determine the status of the criminal history record so as to respond to the dealer within the time frame contained in Section 790.065, F.S., with an approval or non-approval number. At the termination of the time period specified in Section 790.065(2)(c)5., F.S., if such a determination is not possible, the conditional non-approval number will become a conditional approval number. The approval number is valid for a single transaction and for a period not to exceed thirty calendar days after receipt of the number. Multiple firearms may be transferred in this transaction.

(7) The dealer will record the ~~approval, non approval or conditional approval or conditional non approval number, or pending non approval~~ decision and number provided by FDLE in box 19b 21b and in the box in the top right corner labeled, Transferor's Transaction Serial Number of ATF form F-4473 (5300.9) Part 1 (~~10/01~~ 04/12). When the transaction is approved, the dealer should complete Section B of the ATF form F-4473.

(8) To any potential buyer or transferee intending to formally appeal ~~his~~ a non-approval decision, the dealer will provide a Firearm Purchase Non-Approval Appeal Form (form number FDLE 40-020, January 2002), incorporated herein by reference, and on file with Secretary of State, that must be completed by the dealer and the potential buyer or transferee. The potential buyer or transferee must take the form to a law enforcement agency, be fingerprinted there, and return the Non-approval Appeal form and fingerprints to FDLE within ~~21~~60 calendar days. Using the procedures as described in Chapter 11C-8, F.A.C., FDLE will process the formal appeal request. A supply of the appeal forms will be provided by FDLE to dealers upon request. Such requests should be directed to:

Florida Department of Law Enforcement  
Firearm Purchase Program  
Post Office Box 1489  
Tallahassee, Florida 32302-1489  
Telephone Number: (850) 410-8139

As an alternative to this procedure, the potential buyer or transferee may at any time appeal his non-approval directly to the FBI, as authorized by Title 28, C.F.R., Section 25.10.

(9) through (12) No change.

(13) All records where the transfer was approved must be maintained by dealers for 20 years as required by Title 27, C.F.R., Part 178. All records where the transfer was non-approved must be kept by dealers in a secure area and kept confidential for five (5) years. This would include the dealers's copy of the ATF Form F-4473 [5300.9] Part 1 (~~10/0~~ 04/12) where the transfer of a firearm was non-approved. Records must be made available to federal, state, county and municipal law enforcement agencies in connection with their official duties upon request during business hours or other reasonable times if the dealer has no regular business hours.

(14) through (17) No change..

(18) Dealers are required to notify FDLE of any changes in their address, telephone number, or federal license status. Failure to do so will result in the dealer's identification number being suspended. When the correct address and telephone number can be verified, and all outstanding invoices satisfied, service can be reinstated. Dealers with an expired federal license will not be able to process transactions. Dealers must have a valid active telephone number on file with FDLE that is answered during regular business hours.

(19) FDLE will provide a licensed dealer with a new identification number when the dealer believes that unauthorized use has been or may be made of that dealer's current identification number. It is the responsibility of the dealer to maintain the confidentiality of the assigned identification number, username, and password and not release the toll-free telephone number.

(20) No change.

*Rulemaking Authority 790.065, 943.03(4) FS. Law Implemented 790.065 FS., Title 18, U.S.C., Chapter 44, and Title 27, C.F.R., Part 178. History—New 6-2-91, Amended 7-7-99, 8-22-00, 12-18-00, 11-5-02,*

### **11C-6.010 Retention of Applicant Fingerprints.**

(1) Upon official written request from an agency executive director, secretary, or designee, or from a qualified entity under Section ~~943.052~~ 943.0542, F.S., subject to the conditions specified in Section 943.05(2)(g) and (h), F.S., or as otherwise required by law, the Florida Department of Law Enforcement shall enter and retain in the ~~Automated Fingerprint Identification System (AFIS)~~ Biometric Identification System (BIS) the applicant fingerprints submitted for state and national criminal history checks by such agencies or entities to participate in the Applicant Fingerprint Retention and Notification Program (AFRNP) for current and prospective employees, contractors, volunteers, and persons seeking to be licensed or certified.

(2) Such applicant fingerprints shall be submitted in a ~~digitized~~ an electronic format for entry into AFIS BIS, and shall be retained. ~~in the AFRNP database, in such a manner as to be distinct from the criminal history record database. Without regard to whether an applicant fingerprint entry is retained in the BIS database, data from an applicant fingerprint entry which would improve the quality or clarity of an arrest fingerprint entry will be merged with the arrest fingerprints, and the applicants fingerprints retained. An applicant fingerprint entry which is found to match a latent fingerprint taken from a crime scene will be retained as part of the criminal history database unless an arrest fingerprint offers a match that is at least as demonstrable.~~

(3) No Change.



(4) When the subject of retained fingerprints submitted for retention under this program is identified with fingerprints from an incoming Florida arrest, as confirmed by fingerprint comparison, the Department shall immediately advise the agency which submitted the applicant fingerprints of the arrest in writing. ~~Arrests made in other states or by the federal government will not result in notification, as access to these arrests is restricted by federal law. The information on arrests for these applicants in other states and by the federal government is available only upon a fingerprint submission to the Federal Bureau of Investigation.~~

(5) The annual fee for participation in the AFRNP shall be \$6 per individual record retained. The fee is charged on the anniversary month of the applicant's initial entry into the program.

(6) The initial entry of an applicant's fingerprints into the ~~AFRNP~~ BIS database must be accompanied by a state or a state and national criminal history records check. There is no additional fee for the first year of participation in the program. For each succeeding year, the \$6 per record annual fee will be charged.

(7) Noninstructional contractors who are subject to criminal history checks and whose fingerprints are retained in the AFRNP for five years under Section 1012.467, F.S. and Section 435.12, F.S., shall pay the prescribed fee for the five year retention period at the initial submission of fingerprints. ~~All other submissions which are retained will be charged this fee annually in advance on the anniversary of the individual applicant's initial entry into the program.~~

(8) As a condition of participation in the AFRNP, the agency or qualified entity must inform the Department in writing or electronically and receive written confirmation from the Department of all persons with retained fingerprints who are no longer employed, licensed, certified, or otherwise associated with the agency in order that such persons may be removed from the AFRNP database. ~~Without regard to whether an applicant fingerprint entry is retained in the AFRNP database, data from an applicant fingerprint entry which would improve the quality or clarity of an arrest fingerprint entry will be merged with the arrest fingerprints, and the applicant print will be retained as part of the criminal history record database. An applicant fingerprint entry which is found to match a latent fingerprint taken from a crime scene will be retained as part of the criminal history database unless an arrest fingerprint offers a match that is at least as demonstrable.~~

*Rulemaking Authority 943.05(2)(g), (h), 1012.32(3), 1012.465, 1012.56 FS. Law Implemented ~~220.187(6)(b), 432.12, 496.4101(3)(c), 550.105(10)(c), 551.107(7)(c), 560.141(1)(c)3, 559.555(2)3, 744.3135(4)(b), 943.13(5), 985.644(5)(h)(3)(c), 1002.395(6)(b)3, 1002.421(3)(a), 1012.32(3), 1012.465, 1012.467, 1012.56 FS. History—New 11-30-04, Amended 6-9-08, 9-28-09, 5-21-12, \_\_\_\_\_.~~*

ANDY GARDINER  
President



Senator Denise Grimsley, Chair  
Representative W. Travis Cummings, Vice Chair  
Senator Aaron Bean  
Senator Dwight Bullard  
Senator Nancy C. Detert  
Senator Geraldine F. "Geri" Thompson  
Representative Matt Hudson  
Representative Lake Ray  
Representative Hazelle P. "Hazel" Rogers  
Representative Barbara Watson

STEVE CRISAFULLI  
Speaker



KENNETH J. PLANTE  
COORDINATOR  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, Florida 32399-1400  
Telephone (850) 488-9110  
Fax (850) 922-6934  
www.japc.state.fl.us  
joint.admin.procedures@leg.state.fl.us

THE FLORIDA LEGISLATURE  
JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE

June 24, 2016

Ms. Joyce Gainous Harris  
Government Operations Consultant  
Florida Department of Law Enforcement  
2331 Phillips Road  
Tallahassee, Florida 32308

**RE: Department of Law Enforcement  
Rule 11D-8.0035**

Dear Ms. Gainous-Harris:

After reviewing the above-referenced rule, I offer the following comments for your consideration and written response:

**Notice** The notice of proposed rule incorrectly states that the notice of rule development was published on December 29, 2016 when it was published on December 29, 2015. Please publish a notice of correction to address this issue.

**11D-8.0035(2)** Please explain why this subsection is not an invalid exercise of delegated legislative authority.

The proposed rule language states that the Department shall determine the alcohol concentration "in a minimum of ten (10) sample bottles of each lot of alcohol reference solution using gas chromatography or other scientifically accepted method at the time such lots are submitted for approval." The phrase "or other scientifically accepted method at the time such lots are submitted for approval" appears to be vague as it fails to put the public on notice as to what methods of testing will be used by the Department to determine whether or not the alcohol reference solutions have the requisite alcohol concentrations. A rule that "is vague, fails to establish adequate standards for agency decisions, or vests unbridled discretion in the agency" is an invalid exercise of delegated legislative authority. See §120.52(8)(d), Fla. Stat. (2016).

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Professionalism Program

Ms. Joyce Gainous Harris

June 24, 2016

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Further, the rule requires duplicate analyses to be performed on each sample bottle of alcohol reference solution. The proposed rule language states that, “[I]f any result falls outside of the alcohol reference solution acceptable range, a second set of analyses will be performed. If the second set of results are within the alcohol reference solution acceptable range, the alcohol reference solution shall be approved.” Thus, under the proposed rule, the Department would approve a sample bottle of alcohol reference solution which has borne inconsistent test results. These reference solutions are part of the Department’s process that determines whether or not a breath test instrument is reliable enough to produce data that serves an evidentiary use in a court of law. It appears that the inconsistent results that the Department seeks to approve fail to establish adequate standards for agency decisions and constitute and invalid exercise of delegated legislative authority. See §120.52(8)(d), Fla. Stat. (2016).

I look forward to your written response.

Sincerely,

A handwritten signature in blue ink, appearing to read 'S. Jones', with a long horizontal flourish extending to the right.

Sharon Jones  
Senior Attorney



Florida Department of  
Law Enforcement

Richard L. Swearingen  
*Commissioner*

**Office of General Counsel**  
Post Office Box 1489  
Tallahassee, Florida 32302-1489  
(850) 410-7676  
www.fdle.state.fl.us

Rick Scott, *Governor*  
Pam Bondi, *Attorney General*  
Jeff Atwater, *Chief Financial Officer*  
Adam Putnam, *Commissioner of Agriculture*

July 5, 2016

Ms. Sharon Jones  
Senior Attorney  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, FL 32399-1400

RE: Department of Law Enforcement  
Rule 11D-8.0035

Dear Ms. Jones:

I am writing in response to your letter dated June 24, 2016, regarding the JAPC review and findings of the proposed rule revisions to Rule Chapter 11D-8, F.A.C. FDLE provides the following:

**JAPC Comment:**

**Notice:** The notice of proposed rule incorrectly states that the notice of rule development was published on December 29, 2016 when it was published on December 29, 2015. Please publish a notice of correction to address this issue.

**FDLE Response:** FDLE will file a Notice of Correction.

**11D-8.0035(2):** Please explain why this subsection is not an invalid exercise of delegated legislative authority.

The proposed rule language states that the Department shall determine the alcohol concentration "in a minimum of ten (10) sample bottles of each lot of alcohol reference solution using gas chromatography or other scientifically accepted method at the time such lots are submitted for approval." The phrase "or other scientifically accepted method at the time such lots are submitted for approval" appears to be vague as it fails to put the public on notice as to what methods of testing will be used by the Department to determine whether or not the alcohol reference solutions have the requisite alcohol concentrations. A rule that "is vague, fails to establish adequate standards for agency decisions, or vests unbridled discretion in the agency" is an invalid exercise of delegated legislative authority. See §120.S2(8)(d), Fla. Stat. (2016).

Further, the rule requires duplicate analyses to be performed on each sample bottle of alcohol reference solution. The proposed rule language states that, "[I]f any result falls outside of the alcohol reference solution acceptable range, a second set of analyses will be performed. If the second set of results are within the alcohol reference solution acceptable range, the alcohol reference solution shall be approved." Thus, under the proposed rule, the Department would approve a sample bottle of alcohol reference solution which has borne inconsistent test results. These reference solutions are part of the Department's process that determines whether or not a breath test instrument is reliable enough to produce data that serves an evidentiary use in a court of law. It appears that the inconsistent results that the Department seeks to approve fail to establish adequate standards for agency decisions and constitute and invalid exercise of delegated legislative authority. See §120.52(8)(d), Fla Stat. (2016).

**FDLE Response:** In response to paragraph one of your letter regarding the phrase "or other scientifically accepted method at the time such lots are submitted for approval", the core of language that is of concern has existed in the rule since the rule was created in July 1999. The gas chromatograph is the approved method used by the Alcohol Testing Program (ATP).

FDLE will remove the phrase "or other scientifically accepted method" in the next rule promulgation package, which should begin in October or November of 2016. Any new technology that may be selected for future use will be incorporated into the rule at that time.

In response to paragraph two of your letter, the alcohol reference solution lot is a batch of solution that is divided into 1500+ bottles (minimum 800) from an approved source [11D-8.035(1)(a)]. The approved source is used by other states and uses alcohol that is traceable to the National Institute of Standards and Technology (NIST). NIST is the highest level agency of measurement standards in the nation. After the alcohol solution lot is made, the source tests the solution lot by gas chromatography, documents how the solution is made, and provides this documentation and copies of their laboratory analysis to ATP. The approved source then randomly selects 10 bottles and sends them to ATP for further testing and approval. The ATP approval process requires that 10 bottles be tested, in duplicate, using gas chromatography [11D-8.035 (2)(a)] and that the results be within the acceptable range outlined in Rule 11D-8.002(1)(a), F.A.C. This produces 20 individual tests of each solution lot. The determination of accuracy of the alcohol solution lot is contingent upon documentation and tests from the source provider as well as confirmation testing from ATP. These independent tests from two separate laboratories provide a consensus of measurement results and a safeguard to ensure no flawed alcohol solutions are approved for use.

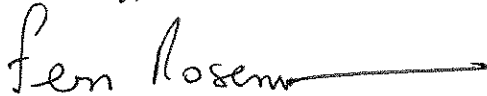
During the ATP approval testing, the ability to repeat a test is inherent in the scientific process. Should a single test result, out of the 20, be found to be outside the acceptable range for any reason, it is good practice and common sense to repeat the entire testing process. This allows for the determination of whether the errant test result is due to the instrumentation, operator error, etc. or the alcohol reference solution itself. For example, if during a measurement process a

Ms. Sharon Jones  
July 5, 2016  
Page 3

single test result falls out of the acceptable range, the cause could simply be the cap on the sample vial was not sealed properly, or a power surge occurred, or there was operator error, or instrument failure, all of which would require retesting of the affected sample. This has nothing to do with a 'bad' alcohol solution but with the measurement process. If the alcohol reference solution lot is truly flawed, inconsistent testing results will be reflected in more than one individual test. Therefore, retesting is needed. The proposed rule states that if the second test yields inconsistent results then the entire 1500+ lot of bottles will be rejected. Rules cannot be written to regulate for every possible contingency that may arise during the testing process. However, the current wording of the rule is being interpreted by some courts to mean that there is no provision for retesting. Not having the provision for retesting is flawed and needs to be corrected. There must be flexibility in the testing process. Mandating that no retest be acceptable and thus disapproving an entire lot for the sake of one errant test, of 20, deprives both the manufacture and the state from discovering the true cause of the inconsistent test result. The repeat test acts as an additional safeguard to ensure that no flawed lots are approved for use. Furthermore repeat testing is a generally acceptable practice in the scientific community throughout the world. The rule update would clarify and eliminate any perceived discrepancy between the rule and accepted laboratory practices. ATP will research and troubleshoot any inconsistent results. This will be documented to ensure that the solutions are accurate and reliable, and available anytime through public records request.

If you have any additional questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Fern Rosenwasser". The signature is written in black ink and includes a long horizontal flourish extending to the right.

Fern Rosenwasser  
Assistant General Counsel

FR/vk

STATE OF FLORIDA  
DEPARTMENT OF LAW ENFORCEMENT  
CHAPTER 11D-8, FLORIDA ADMINISTRATIVE CODE  
AMENDING RULES 11D-8.0035  
IMPLIED CONSENT PROGRAM  
SUMMARY OF THE RULE

Removes requirement that all analysis results shall fall within the alcohol reference solution acceptable range; and removes language dealing with post-approval analysis.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

11D-8.0035(2)(a): Adds specificity to the rule to clarify the approval process for alcohol reference solutions.

11D-8.0035(4): Repeals this paragraph because it is no longer necessary with the added specificity to paragraph (2)(a) of this rule section.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND  
LEGISLATIVE RATIFICATION

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative

ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment.

FEDERAL COMPARISON STATEMENT

There are no federal requirements dealing with this topic.

SUMMARY OF HEARING

**RE: Public Hearing:**

FDLE held a hearing on the proposed rule revisions to Rule 11D-8.035, F.A.C., on June 29, 2016, at the FDLE Headquarters in Tallahassee. Dr. Brett Kirkland made opening remarks, and introduced those present. Defense attorney Robert Berry was present. Mr. Berry thanked the Department for hosting the rule hearing and stated that he understood the need to address this section of rule due to conflicting court rulings.

Mr. Berry stated that the ATP Procedures Manual is not incorporated into rule and that the Division of Administrative Hearings has previously ruled that the ATP Procedures Manual is not required to be placed into rule. Mr. Berry subsequently addressed his concern related to wording in the ATP Procedures Manual and not the proposed rule revision. *RESPONSE:* The ATP Procedures Manual is not governed by the rule and does not need to be included in any rule revisions. The Alcohol Testing Program will take Mr. Berry's comments regarding possible clarification to its procedures manual under advisement.

After Mr. Berry's comments, the rule hearing officially concluded.

**RE: JAPC Comments:**

FDLE received comments from Joint Administrative Procedures Committee on June 28, 2016, and FDLE's response is attached.

**RE: User Comments Posted in Response to Notice of Proposed Rulemaking:**



FDLE's response to JAPC addresses the concerns expressed by various commenters through FLRules.com

## Notice of Proposed Rule

### **DEPARTMENT OF LAW ENFORCEMENT Division of Local Law Enforcement Assistance**

RULE NO.: RULE TITLE:

11D-8.0035 Approval of Alcohol Reference Solution and Sources

PURPOSE AND EFFECT: Paragraph 11D-8.0035(2)(a), F.A.C.: Adds specificity to the rule to clarify the approval process for alcohol reference solutions.

Subsection 11D-8.0035(4), F.A.C.: Repeals this paragraph because it is no longer necessary with the added specificity to paragraph (2)(a) of this rule section.

SUMMARY: Removes requirement that all analysis results shall fall within the alcohol reference solution acceptable range; and removes language dealing with post-approval analysis.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed rule is not expected to exceed any of the criteria set forth in Section 120.541(2)(a), F.S., and thus, a legislative ratification is not required under Section 120.541(3), F.S. This determination is based upon the nature of the subject matter of the proposed amendment.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 316.1932(1)(a)2., (f)1., 316.1933(2)(b), 316.1934(3), 322.63(3)(a), (b), 327.352(1)(b)3. FS.

LAW IMPLEMENTED: 316.1932(1)(b)2., 316.1933(2)(b), 316.1934(3), 322.63(3)(b), 327.352(1)(e), 327.353(2), 327.354(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Wednesday, June 29, 2016, 10:00 a.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The Alcohol Testing Program at (850)617-1290, or [alcoholtestingprogram@fdle.state.fl.us](mailto:alcoholtestingprogram@fdle.state.fl.us), or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, Alcohol Testing Program, 2331 Phillips Road, Tallahassee, Florida 32308. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Patrick Murphy, Ph.D., ATP Program Manager at (850)617-1290, or [alcoholtestingprogram@fdle.state.fl.us](mailto:alcoholtestingprogram@fdle.state.fl.us), or write to Florida Department of Law Enforcement, Criminal Justice Professionalism, Alcohol Testing Program, 2331 Phillips Road, Tallahassee, Florida 32308

NAME OF PERSON ORIGINATING PROPOSED RULE: Patrick Murphy, Ph.D., ATP Program Manager

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 02, 2016

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: December 29, 2016

THE FULL TEXT OF THE PROPOSED RULE IS:

11D-8.0035 Approval of Alcohol Reference Solution and Sources.

(1) No change.

(2) The Department shall approve each lot of alcohol reference solution prior to distribution for use in Florida.

(a) The Department shall determine the alcohol concentration in a minimum of ten (10) sample bottles of each lot of alcohol reference solution using gas chromatography or other scientifically accepted method at the time such lots are submitted for approval. Duplicate analyses will be performed on each sample bottle of alcohol reference solution. If any result falls outside the alcohol reference solution acceptable range, a second set of analyses will be performed. If the second set of results are within the alcohol reference solution acceptable range, the alcohol reference solution shall be approved. If any of the results fall outside the alcohol reference solution acceptable range a second time, the alcohol reference solution shall be disapproved. All analysis results shall fall within the alcohol reference solution acceptable range.

(b) No change.

(3) No change.

~~(4) Approval analyses of alcohol reference solution lots shall be based on requirements and procedures in effect at the time such lots are submitted for approval. No post approval analysis is required for previously approved alcohol reference solution lots.~~

Rulemaking Authority 316.1932(1)(a)2., (f)1., 322.63(3)(a), 327.352(1)(b)3., (d) FS. Law Implemented 316.1932(1)(b)2., 316.1934(3), 322.63(3)(b), 327.352(1)(e), 327.354(3) FS. History—New 7-6-99, Amended 7-29-01, 12-9-04, 7-29-15,\_\_\_\_\_.

## FDLE Performance Measures - 3rd Quarter FY 15-16

Number	Objective	Weight	Range	Result	Score	Weighted Score
1	Percentage of investigative resources dedicated to conducting major investigative activities	20%	5 = 70% or more 4 = 68-69% 3 = 66-67% 2 = 64-65% 1 = 63% and below	71.0%	5	
2	Percentage of service requests completed as function of staffing and optimal performance	15%	5 = 15% and above 4 = 6-14% 3 = 0-5% 2 = -5 to -1% 1 = -5% and below	24.0%	5	
3	Percentage of criminal history records compiled accurately	10%	5 = 98-100% 4 = 95-97% 3 = 92-94% 2 = 89-91% 1 = 88% and below	N/A	N/A	
4	Percentage of criminal history record checks responded to within the defined timeframe	5%	5 = 100% 4 = 98-99% 3 = 96-97% 2 = 94-95% 1 = 93% and below	96.0%	3	
5	Percentage of Biometric Identification System searches performed in 10 minutes or less	5%	5 = 100% 4 = 98-99% 3 = 96-97% 2 = 94-95% 1 = 93% and below	97.4%	3	
6	Percentage of time critical technology systems are online and accessible	10%	5 = 95-100% 4 = 90-94% 3 = 85-89% 2 = 80-84% 1 = 79% and below	99.95%	5	
7	Number of training hours delivered to local, state and federal agencies	5%	5 = 800 or more 4 = 750-799 hours 3 = 700-749 hours 2 = 650-699 hours 1 = less than 650 hours	590	N/A	
8	Percentage of officer certification applications processed within defined timeframe	5%	5 = 97-100% 4 = 94-96% 3 = 90-93% 2 = 89-86% 1 = 85% and below	95.0%	4	
9	Percentage of customers with positive service rating	5%	5 = 95-100% 4 = 90-94% 3 = 85-89% 2 = 80-84% 1 = 79% and below	N/A	N/A	
	<b>Total</b>	<b>80%</b>				



## CONTRACTS, AGREEMENTS AND PURCHASES OVER \$100,000

Q3- FY 2015-16 (Jan. 1 – March 31, 2016)

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<u>P.O.#</u>	<u>VENDOR/SERVICE</u>	<u>AMOUNT</u>
AE8FAB	<b>Alan Jay Chevrolet, Cadillac, Inc.</b> Purchase of five Nissan Altima vehicles. <ul style="list-style-type: none"><li>▪ State Term Contract</li><li>▪ One Time Purchase</li></ul>	\$116,170
FDLE-023-16	<b>B&amp;L Associates, Inc.</b> Software license & maintenance support services. <ul style="list-style-type: none"><li>▪ Single Source</li><li>▪ Term: 1/1/16-12/31/17</li></ul>	\$ 186,866
ADDCD6 PO1047392	<b>Bode Cellmark Forensics, Inc.</b> Testing of forensic Biology (DNA) cases. <ul style="list-style-type: none"><li>▪ Invitation to Bid</li><li>▪ Terms: 11/1/15-2/5/16, 2/6/16-2/5/19</li></ul>	\$ 441,299 \$3,059,925
AE0F69	<b>Cellmark Forensics, Inc.LP</b> Testing of forensic Biology (DNA) cases. <ul style="list-style-type: none"><li>▪ Invitation to Bid</li><li>▪ Term: 12/3/15-3/31/16</li></ul>	\$ 487,122
AE9246	<b>Don Reid Ford</b> Purchase of four Ford Taurus and five Ford F-150 vehicles. <ul style="list-style-type: none"><li>▪ State Term Contract</li><li>▪ One Time Purchase</li></ul>	\$ 213,087
PO1033193	<b>Ephesoft</b> Maintenance and support for Ephesoft platinum subscription. <ul style="list-style-type: none"><li>▪ Invitation to Bid</li><li>▪ Term: 11/20/15-11/19/16</li></ul>	\$230,543
AE990D	<b>Florida Counter Drug Procurement Program/Florida Sheriffs Association</b> Purchase of Special Operations Team (SOT) vehicle. <ul style="list-style-type: none"><li>▪ Alternate Contract</li><li>▪ One Time Purchase</li></ul>	\$159,603
AE9071	<b>Garber Chevrolet, Buick, Pontiac, GMC Truck, Inc.</b> Purchase of two Chevrolet Traverse and six GMC Terrain vehicles. <ul style="list-style-type: none"><li>▪ State Term</li><li>▪ One Time Purchase</li></ul>	\$197,738

<p><b>AE3EDF</b> <b>AE3A83</b> <b>AE3A80</b></p>	<p><b>Georgia-Florida Burglar Alarm Company, Inc.</b> Parts and labor charges for installation of keyless door access systems for the Tallahassee, Tampa Bay and Orlando Crime Labs.</p> <ul style="list-style-type: none"> <li>▪ Single Source</li> <li>▪ One Time Purchase</li> </ul>	<p><b>\$101,655</b> <b>\$121,464</b> <b>\$109,630</b></p>
<p><b>AEAE93</b> <b>AE46A7</b> <b>AE4C21</b></p>	<p><b>Life Technologies Corporation</b> Reagents and supplies for offender DNA (Biology) casework performed by Tallahassee and Tampa Bay Crime Labs.</p> <ul style="list-style-type: none"> <li>▪ Single Source</li> <li>▪ One Time Purchase</li> </ul>	<p><b>\$277,189</b> <b>\$196,919</b> <b>\$280,017</b></p>
<p><b>FDLE-028-16</b></p>	<p><b>NicheVision Forensics, LLC</b> Probabilistic Genotyping Software, installation and training for six regional laboratories/approximately 100 users.</p> <ul style="list-style-type: none"> <li>▪ Request for Proposal</li> <li>▪ Term: 3/14/16-3/13/17</li> </ul> <p><i>This software will assist the DNA Analyst to interpret complicated DNA mixtures to provide the most information possible to investigators about possible contributors to DNA left behind at a crime scene when more than one DNA donor is present.</i></p> <p><i>The DNA Technical Leaders are receiving training the week of July 18, 2016 in Palm Beach and we have scheduled two training sessions for October and November 2016 for the first 50 analysts. The remainder will be trained in classes that will be scheduled in the spring of 2017.</i></p>	<p><b>\$381,425</b></p>
<p><b>FDLE-032-16</b></p>	<p><b>Northrop Grumman Systems Corporation, Inc.</b> Data feed to collect records in the Center for Law Enforcement Technology, Training &amp; Research. Federated Integrated Network for data exchange and retrieval data sharing system.</p> <ul style="list-style-type: none"> <li>▪ Single Source</li> <li>▪ Term: 3/16/16-6/30/16</li> </ul>	<p><b>\$106,960</b></p>
<p><b>AE5E7D</b></p>	<p><b>Promega Corporation</b> 40 Plexor System 800 kits for Forensic Biology cases.</p> <ul style="list-style-type: none"> <li>▪ Single Source</li> <li>▪ One Time Purchase</li> </ul> <p><i>The Plexor DNA Quantitation kits are reagents and supplies that are used to quantitate or determine how much DNA we were able to recover from a crime scene specimen.</i></p> <p><i>Current DNA technology requires knowing the amount of DNA in a sample before you begin the typing process. Loading too much DNA into a reaction can overload the test and require re-analysis. The same is true for loading too little DNA, then you would not obtain a result. So, knowing how much DNA you have is an important step in the DNA analysis process.</i></p> <p><i>There is a newly improved quantitation kit that we will begin using by the end 2016 that will replace Plexor and the name of this kit is Quant TRIO and it is currently in validation and performance checks.</i></p>	<p><b>\$947,940</b></p>