

AGENDA
FLORIDA DEPARTMENT OF LAW ENFORCEMENT
FEBRUARY 24, 2010

Attachments to the items below can be viewed at the following link:

<http://www.fdle.state.fl.us/Content/getdoc/b2d2beb1-8be5-4fae-81bd-df25a3dab70d/test-home.aspx>

ITEM 1. Respectfully submit the **Minutes of the December 8, 2009 Cabinet Meeting**.

(See Attachment 1)

RECOMMEND APPROVAL

ITEM 2. Respectfully submit the **Florida Department of Law Enforcement's FY 2009-10 2nd Quarter Performance Report, with Contracts, Agreements and Purchases over \$100,000 for October 1 through December 31, 2009**.

(See Attachment 2)

RECOMMEND APPROVAL

ITEM 3. Respectfully submit the **Florida Department of Law Enforcement's FY 2010-11 Supplemental Legislative Budget Request**.

(See Attachment 3)

RECOMMEND APPROVAL

ITEM 4. Respectfully submit **Notice of Proposed Rules** for the following:

11B-18 - Criminal Justice Standards and Training Trust Fund - Revises the name of training schools. Permits training center director designee to represent the director at Commission meetings.

11B-20 - Certification of Criminal Justice Training Instructors - Permits training center director designee to administer policies set by the Commission or director, approve documents or make routine requests consistent with Commission or director guidance, and represent the director at Commission meetings.

11B-27 - Certification and Employment or Appointment - Revises various moral character violations to include definitions and new statutory citations reflecting changes in various sex and drug related officer misconduct. Revises requirements for complying with the Commission's Firearms Qualification Standard, background investigations, and reporting. Permits training center director designee to represent the director for all Commission activities. Revises forms CJSTC-77, CJSTC-4 CMS, and CJSTC-60 to correspond with proposed rule revisions.

11B-30 - State Officer Certification Examination - Deletes the Law Enforcement Traditional State Officer Certification Examination from the State Officer Certification Examination and updates the names of the training schools on the Application for Officer Certification Examination form CJSTC-500.

11B-35 - Training Programs - Permits training center director designee to administer policies set by the Commission or director, approve documents or make routine requests consistent with Commission or director guidance, and represent the director at Commission meetings. Revises rule language to exempt specific individuals from First Aid course as part of Auxiliary Officer Basic Recruit Training Program.

11C-6 – Procedures for Requesting Criminal History Records – Revises fees for criminal history checks.

11C-7 – Procedures on Court-ordered Expunctions and Sealings – Simplifies the language in the State Attorney’s endorsement section of FDLE form 40-021 Application for Certification of Eligibility.

11D-6 – DNA Database Collection – Revises the definitions and procedures for the collection of DNA samples to comport with technological advances relating to DNA collection and record keeping.

11G-2 – Standard Investigation Procedures – Clarifies information required in an autopsy report and updates the Medical Examiners’ Practice Guidelines.

(See Attachment 4)

RECOMMEND APPROVAL

**MINUTES
FLORIDA DEPARTMENT OF LAW ENFORCEMENT**

December 8, 2009

The Florida Department of Law Enforcement met on this date in the Cabinet Meeting Room, LL-03, The Capitol, Tallahassee, Florida with the following Cabinet members present:

Honorable Charlie Crist, Governor
Honorable Charles H. Bronson, Commissioner of Agriculture
Honorable Bill McCollum, Attorney General
Honorable Alex Sink, Chief Financial Officer

ITEM 1. Respectfully submit the **Minutes of the August 25,2009 Cabinet Meeting.**

Motion to approve by Commissioner Bronson. Seconded by Attorney General McCollum.
Minutes approved without objection.

ITEM 2. Respectfully submit the **Florida Department of Law Enforcement Fiscal Year 2009-10, 1st Quarter Performance Report with Contracts, Agreements and Purchases over \$100,000 for July 1 through September 30, 2009.**

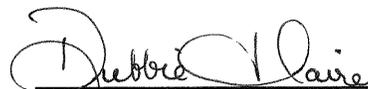
Motion to approve by Attorney General McCollum. Seconded by Commissioner Bronson. Report approved without objection.

ITEM 3. Respectfully submit the **Florida Department of Law Enforcement's 2010 Proposed Legislative Initiatives.**

Motion to approve by Chief Financial Officer Sink. Seconded by Attorney General McCollum.
Report approved without objection.



Gerald M. Bailey
Commissioner



Debbie Haire
Executive Assistant



2nd QUARTER PERFORMANCE REPORT

	2 nd Quarter Performance	Standard FY 09-10
Number / percent of lab service requests completed	39,046 98%	78,000 95%
Average number of days to complete lab service requests		
AFIS (Automated Fingerprint Identification System)	45	45
CER (Computer Evidence Recovery)	98 ¹	70
Chemistry	13	30
Crime Scene	34 ¹	30
Firearms	102 ¹	80
Latent Prints	44	60
Trace Evidence	152 ¹	115
Serology / DNA	76	111
Toxicology	41	40
Number of hits, samples added and total samples in DNA Database		
Hits	1,662	2,000
Samples added	51,594	90,000
Total samples in DNA Database	664,813	700,000
Number of criminal investigations	1,628 ²	3,862
Number / percent of criminal investigations closed	349 33%	786 69%
Number / percent of criminal investigations closed resulting in arrest	196 55%	458 58%
Number of domestic security cases	18	30
Number of intelligence initiatives	272	490
Number of public assistance fraud investigations	1,001 ³	2,350
Amount of fraudulent benefits withheld as a result of public assistance fraud investigations	\$7.3 M	\$12 M
Number of calls for Capitol Police service	2,005 ⁴	8,000
Percent of time FCIC is accessible	100%	99.5%
Number of criminal history record checks processed	1,282,842	2,000,000
Number of registered sexual predators / offenders added and total identified to the public	1,728 53,225	3,000 52,516
Number of missing persons cases	2,748	4,000
Missing Child Alerts activated	9	6
Amber Alerts activated	7	5
Silver Alerts activated	63	24
Number of arrest records created and maintained	21,427,809	17,686,354
Number / percent of individuals who pass the basic professional certification examination	3,143 80%	6,400 80%
Number of professional law enforcement certificates issued	10,592 ⁵	25,000
Number of criminal justice officer disciplinary actions	388	452



Justifications

- 1 **Average number of days to complete lab service requests** – The Department is focusing efforts on backlog reduction. The turnaround time for various disciplines is expected to gradually decline as the number of pending cases decreases. In CER, Crime Scene and Firearms, this included completing older cases that are pending. Trace Evidence services are not initiated until other examinations are completed. Thus, performance in this discipline is dependent upon the processing time in other disciplines.
- 2 **Number of criminal investigations** – The Department is committed to working complex, protracted high impact criminal investigations. Because of their complexity, cases are lengthy and labor intensive, resulting in agents investing more hours in fewer cases over a longer period of time.
- 3 **Number of Public Assistance Fraud (PAF) investigations** – Funding for the program decreased significantly in recent years. Additionally, the program is engaged in more complex criminal investigations which require more time and effort to investigate, resulting in fewer case closures.
- 4 **Number of calls for Capitol Police service** – Due to a proactive patrol approach by Capitol Police officers, the number of calls for service is less than the standard. Additionally, this measure fluctuates depending upon events scheduled at the Capitol.
- 5 **Number of professional law enforcement certificates issued** – Certificates are issued to individuals meeting training requirements for basic and post-basic programs offered at Criminal Justice Standards and Training Commission certified training schools. FDLE issued certificates for all individuals meeting requirements.



Highlights

Wanted! Reward for Capture! The faces of Florida's oldest and most violent prison escapees were displayed on digital billboards, websites and in newspapers across the state this past December as part of the "12 Days of Fugitives" campaign. An episode of America's Most Wanted aired a segment about one of the fugitives, Glen Chambers, and highlighted the others on the show and on their website. And more than \$22,000 in reward money was offered for information leading to their capture, thanks to a partnership between FDLE, the Department of Corrections (DOC) and Florida Police Chiefs Association.



The wanted men featured included murderers, armed robbers and drug dealers and ranged in age from 49 to 75. The dirty dozen had one thing in common – they had escaped DOC custody before completing their sentences. The campaign was designed to reach the public during the holiday season, when the wanted men were most likely to be contacting friends, family and loved ones. A toll-free hotline was set up and just days into the campaign, a tipster called in and passed on key information leading to the capture of Oscar Eugene Robinson, who escaped 30 years ago. He was arrested in Ridgedale, Missouri and was recently extradited to Florida.

Miami Resident Charged in \$55 million Medicare Fraud Scheme. In partnership with federal law enforcement, the Department arrested a Miami resident as part of a fraud scheme for allegedly submitting \$55 million in false claims to Medicare through via seven medical clinics thought Florida. The clinics were purported to provide expensive medical treatments for Medicare beneficiaries suffering from ailments including cancer, HIV, AIDS and chronic pain. Based on the fraudulent claims, Medicare paid the individual and his conspirators \$22 million, which he used to purchase numerous luxury and exotic cars, jewelry and horses.



Mortgage Fraud Surge Nets Over 100 Individuals. A nine-month mortgage fraud investigation resulted in charges against over 100 defendants and involved over \$400 million in loans and more than 700 properties procured by fraud. The investigation was launched in response to the epidemic of mortgage fraud throughout Florida which began during the state's real estate boom earlier this decade. A number of state and federal law enforcement agencies, including FDLE's Ft. Myers, Jacksonville, Orlando and Tampa Regional Operations Centers, conducted an intensive and wide-ranging investigation into hundreds of mortgage fraud leads. The defendants are being prosecuted by the US Attorney's Office for the Middle District of Florida.



CONTRACTS, AGREEMENTS AND PURCHASES
OVER \$100,000 FOR OCTOBER 1ST THROUGH DECEMBER 31ST 2009

<u>P.O.#</u>	<u>VENDOR/SERVICE</u>	<u>AMOUNT</u>
DO1022405	The Bode Technology Group, Inc. Amended to increase amount for testing of forensic biology cases for Investigative and Forensic Program No Term Agency ITB	\$395,000
*DO1531422	Infinity Software Development, Inc. Amended for additional Information Technology (IT) services, systems analysis, and programming for the Sex Offender / Predator system for Criminal Justice Information Program Term period: 7/1/09 through 6/30/10 State Term Contract	\$178,800
*DO1535927	Advanced Systems Design, Inc. Amended for additional IT services, systems analysis, and programming for the Computerized Criminal History (CCH) system for Criminal Justice Information Program Term period: 7/1/09 through 6/30/10 State Term Contract	\$140,685
*DO1722927	Infinity Software Development, Inc. IT services, systems analysis, and programming for Investigative and Forensic Services Program Term period: 11/1/09 through 6/30/10 State Term Contract	\$100,128
C9995A	MorphoTrak, Inc. Upgrade maintenance and technical support warranty on the Biometric Identification System for Criminal Justice Information Program Term period: 10/7/09 through 6/30/10 Single Source	\$402,455
C1106A	MorphoTrak, Inc. Maintenance and technical support of Tenprint (fingerprint) Matching System for Criminal Justice Information Program Term period: 10/1/09 through 6/30/10 Single Source	\$101,510

*Minority Vendor

CONTRACTS, AGREEMENTS AND PURCHASES
OVER \$100,000 FOR OCTOBER 1ST THROUGH DECEMBER 31ST 2009

<u>P.O.#</u>	<u>VENDOR/SERVICE</u>	<u>AMOUNT</u>
C1113A	Northrop Grumman Maintenance upgrades on the LInX system to include adding other agency law enforcement data integration for Jacksonville Regional Operation Center Term period: 12/1/09 through 6/30/10 Single Source	\$272,214
C1109A	A Child is Missing (ACIM) A program providing reverse 911 service and assists in the location of missing children, Alzheimer patients, and activities surrounding Silver Alerts Term period: 11/12/09 through 9/20/10 Government	\$232,461

*Minority Vendor

Florida Department of Law Enforcement
 Supplemental Legislative Budget Request
 Fiscal Year 2010-11



Issue	FTE	General Revenue	Trust Fund	TOTAL
Expand DNA Database to include Felony Arrests	6	\$2,080,500		\$2,080,500
Increased Demand for Criminal History Background Record Checks	3		\$175,291	\$175,291
Improved Automation of Criminal History Background Record Checks	1		\$102,053	\$102,053
Growth of Credit Card Service charges			\$371,946	\$371,946
TOTAL REQUEST	10	\$2,080,500	\$649,290	\$2,729,790

Expand DNA Database to include Felony Arrests
\$2,080,500 General Revenue

Chapter 2009-190, Laws of Florida, requires the collection of DNA samples (contingent upon funding) from any individual who is arrested for any felony offense, specified misdemeanor offense or an offense committed to benefit a criminal gang. The law established a controlled expansion to be implemented over a 10-year period. First year funding is needed to acquire infrastructure to automate the DNA sample collection/submission system. The Department anticipates an increase of 200,000 samples during the 10 years.

The Department requests funding to purchase 600 Rapid ID workstations (computer, Rapid ID device and barcode printer) to confirm the identity of the arrestee and notify the facility if the arrestee's DNA is already stored in the database. Workstations would be provided to state prisons, county jails, courtrooms, Department of Juvenile Justice facilities, and probation and parole locations throughout Florida. The technology will be a long-term cost savings, as it will eliminate duplicate DNA collections, reduce data entry of offender information, expedite entry of the sample into the DNA Database and minimize personnel. The Department also requests funding for six crime lab analysts and various equipment to handle increased volume of DNA samples.

Increased Demand for Criminal History Background Record Checks
\$175,291 Trust Fund

The S.A.F.E. Mortgage Licensing Act of 2008 requires applicants for loan originator licenses, mortgage broker licenses and mortgage lender licenses to submit fingerprints to the Department for a state and national criminal history background record check. This mandate becomes effective October 1, 2010 and will result in an estimated 50,000 additional background checks during the first year and approximately 4,500 requests in subsequent years. The Department requests funding of three positions to meet this growth in demand and ensure background check results are provided to licensing authorities quickly and efficiently.

Improved Automation of Criminal History Background Record Checks
\$102,053 Trust Fund

The Department maintains the central repository of criminal records in Florida which is used for a wide range of criminal justice and business purposes. More than one million criminal history background record checks are processed annually for employment, licensing, and other related purposes. The Department requests funding to implement a more sophisticated applicant record check search that would automatically search against the fingerprints on file in the criminal history system without a demographic (name search) being conducted first. This change would bring Florida into compliance with federal law and maximize the ability to identify an applicant's previous criminal record.

Growth of Credit Card Service charges
\$371,946 Trust Fund

The Department requests additional budget authority to pay service charges billed by credit card companies for criminal history background record checks. Currently, the Department absorbs these service charges for its customers. Since the Department received initial budget authority for this function in FY 2005-06, credit card service charges have increased 43% and it is anticipated they will grow another 11% over the next several years. Additionally, the volume of criminal history background record checks processed by the Department has increased in recent years. In FY 2008-09, the Department processed 2.7 million criminal history background record checks.

STATE OF FLORIDA
DEPARTMENT OF LAW ENFORCEMENT
CHAPTER 11B-18, FLORIDA ADMINISTRATIVE CODE
AMENDING RULES 11B-18.004 and 11B-18.0053
CRIMINAL JUSTICE STANDARDS AND TRAINING TRUST FUND

SUMMARY OF THE RULE

Rule 11B-18.004: Revised to update the name of training schools in the regional training areas.
Rule 11B-18.0053: Revised to allow reimbursement of travel expenses to a training center director designee for attendance at Criminal Justice Standards and Training Commission meetings.

JUSTIFICATION OF PROPOSED RULE

To allow the reimbursement of travel expenses to a training center director's designee for attendance at the Criminal Justice Standards and Training Commission quarterly meetings. To make housekeeping revisions.

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

NAME OF AGENCY: Florida Department of Law Enforcement

Division or Board: Criminal Justice Standards and Training Commission

RULE NO.: RULE TITLE:

11B-18.004 Regional Training Areas

11B-18.0053 Officer Training Monies Budget and Expenditure Categories

PURPOSE AND EFFECT: To allow the reimbursement of travel expenses to a training center director's designee for attendance at the Criminal Justice Standards and Training Commission quarterly meetings. To make housekeeping revisions.

SUMMARY: Rule 11B-18.004: Revised to update the name of training schools in the regional training areas. Rule 11B-18.0053: Revised to allow reimbursement of travel expenses to a training center director designee for attendance at Criminal Justice Standards and Training Commission meetings.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of Estimated Regulatory Cost was prepared. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to 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), 943.25(2), (4), (5) FS.

LAW IMPLEMENTED: 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: Tuesday, March 23, 2010, 10:00 a.m.

PLACE: Florida Department of Law Enforcement (FDLE), Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, FL 32308.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donna Hunt at 850-410-8615. FDLE, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, FL 32308.

NAME OF PERSON ORIGINATING PROPOSED RULE: Donna Hunt at 850-410-8615

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 24, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

THE FULL TEXT OF THE PROPOSED RULE IS:

11B-18.004 Regional Training Areas. For the purposes of Officer Training Monies activities, there are established the following sixteen regional training areas:

(1) – (4) No change.

(5) Region V.

(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: Florida Community College Northeast Florida Criminal Justice Training and Education Center and St. Johns River Community College Criminal Justice Training Program.

(6) No change.

(7) Region VII.

(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: Brevard Community College Institute of Public Safety Criminal Justice Division, Criminal Justice Institute at Valencia Community College, School of Emergency Services Institute at Daytona State College, Criminal Justice Academy of Osceola, Lake Technical Center Institute of Public Safety, and Seminole State Community College Criminal Justice Institute.

(8) Region VIII.

(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 at Polk Community College and South Florida Community College Criminal Justice Academy.

(9) Region IX.

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

(b) Commission-certified training schools within Region IX: Hillsborough Community College Yabor City Campus Criminal Justice Institute, Manatee Technical Law Enforcement Academy, Manatee County Sheriff's Office Training Center, Pasco-Hernando Community College Public Service Technology Center, and St. Petersburg College Southeastern Public Safety Institute.

(10) Region X.

(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/Sarasota Criminal Justice Academy and Southwest Florida Public Service Academy.

(11) – (13) No change.

(14) Region XIV.

(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 ~~Police Department~~ Metropolitan Police Institute, and Miami-Dade College School of Justice.

(15) – (16) No change.

Rulemaking Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.25(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, _____.

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

(1) A distribution formula has been established by the Criminal Justice Standards and Training Commission to provide guidance to training regions regarding the expenditure of Officer Training Monies in the regions. Any deviations by a region from the distribution formula shall be approved by the Commission. The distribution formula is:

(a) – (c) No change.

(2) Category I, Administrative Expenses. Administrative Expenses shall be reasonable and an accounting of all expenditures shall be maintained.

(a) Each region shall not budget more than 5% of the total regional allocation for Administrative Expenses, notwithstanding the following exceptions for additional Officer Training Monies budgeted that exceed the 5% limitation:

1. Support of travel of Regional Training Council Chairpersons, fiscal agents, and training center directors or their designee, to Officer Training Monies workshops conducted by Commission staff; and
2. Support of travel for training center directors or designees to attend Criminal Justice Standards and Training Commission quarterly meetings.

(b) – (c) No change.

(3) – (4) No change.

Rulemaking Specific 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, _____.

STATE OF FLORIDA
DEPARTMENT OF LAW ENFORCEMENT
CHAPTER 11B-20, FLORIDA ADMINISTRATIVE CODE
AMENDING RULES 11B-20.001 and 11B-20.0017
CERTIFICATION OF CRIMINAL JUSTICE TRAINING INSTRUCTORS

SUMMARY OF THE RULE

11B-20.001 and 11B-20.0017: Revised to allow a training center director's designee to administer polices set by the Commission or the director, approve documents or make routine requests consistent with the Commission or director's guidance, and represent the director at meetings.

JUSTIFICATION OF PROPOSED RULE

To allow the delegation of specific training center director duties to a designee appointed by the training center director.

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

NAME OF AGENCY: Florida Department of Law Enforcement

Division or Board: Criminal Justice Standards and Training Commission

RULE NO.: RULE TITLE:

11B-20.001 Definitions and Minimum Requirements for General Certification of Instructors
11B-20.0017 Maintenance and Duration of Instructor Certifications

PURPOSE AND EFFECT: To allow the delegation of specific training center director duties to a designee appointed by the training center director.

SUMMARY: 11B-20.001 and 11B-20.0017: Revised to allow a training center director's designee to administer policies set by the Commission or the director, approve documents or make routine requests consistent with the Commission or director's guidance, and represent the director at meetings.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to 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), 943.14(3) FS.

LAW IMPLEMENTED: 943.12(3), (9), 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: Tuesday, March 23, 2010, 10:00 a.m.

PLACE: Florida Department of Law Enforcement (FDLE), Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, FL 32308.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donna Hunt at 850-410-8615. FDLE, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, FL 32308.

NAME OF PERSON ORIGINATING PROPOSED RULE: Donna Hunt at 850-410-8615

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 24, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

THE FULL TEXT OF THE PROPOSED RULE IS:

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

(1) – (2) No change.

(3) General Instructor Certification.

(a) No change.

1. – 4. No change.

5. Instructor Separation or Change of Affiliation.

a. No change.

b. When a training center director, or agency administrator, or designee separates an instructor for administrative purposes, the training center director, agency administrator, or designee shall notify the instructor of the separation and submit form CJSTC-61 to Commission staff or electronically transmit through the Commission's ATMS and a copy of the form shall be maintained in the Instructor's file.

c. No change

(b) Equivalent Instructor Training.

1. Instructor applicants who request an exemption from the required instructor training shall be evaluated by the training center director for completion of equivalent instructor training by documenting the instructor applicant's qualifications. Documentation shall include the instructor applicant's training in all of the following competencies, or the training center director or designee may authorize the instructor applicant to complete only those portions of the Florida General Instructor Techniques Course for which the instructor applicant is deficient:

(4) Exemption from General Instructor Certification. ~~An individual. The training center director is authorized to exempt an individual, from General Instructor Certification,~~ who has a professional or technical certification or three years of experience in the specified subject matter to be instructed, shall be exempt from General Instructor Certification. The training center director or designee shall document the individual's qualifications by completing the Instructor Exemption, form CJSTC-82, revised November 8, 2007, hereby incorporated by reference, which shall be maintained in the course file at the training school. Form CJSTC-82 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) – (6) No change.

Rulemaking Authority 943.03(4), 943.12(1), 943.14(3) FS. Law Implemented 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, _____.

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 8, 2007, 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) – (3) No change.

(4) High-Liability Instructor Certification. Commission-certified Instructors who possess a High-Liability Instructor Certification shall comply with the following requirements, once during their four-year cycle, to maintain an active certificate for each high-liability topic:

(a) No change.

(b) Successfully complete continuing education or training approved by the training center director, or agency administrator, or designee.

(5) Specialized Topics Instructor Certification. Instructors who possess a Specialized Topics Certification shall comply with the following requirements, once during their four-year cycle, to maintain certification:

(a) No change.

(b) Successfully complete continuing education or training approved by the training center director, or agency administrator, or designee. Breath Test Instructors shall successfully complete the Breath Test Instructor Renewal Course.

(6) – (8) No change.

Rulemaking Specific Authority 943.03(4), 943.12(1), 943.14(3) FS. Law Implemented 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, _____.

STATE OF FLORIDA

DEPARTMENT OF LAW ENFORCEMENT

CHAPTER 11B-27, FLORIDA ADMINISTRATIVE CODE

AMENDING RULE 11B-27.0011, 11B-27.002, 11B-27.00212, 11B-27.00213, 11B-27.0022, 11B-27.004,

11B-27.005, 11B-27.013, and 11B-27.014

CERTIFICATION AND EMPLOYMENT OR APPOINTMENT

SUMMARY OF THE RULE

Rule 11B-27.0011(4)(b)1., F.A.C.: Added the new statutes for “dating violence” (Section 784.046(15), F.S.) and for “video voyeurism” (Section 810.145, F.S.) to the list of misdemeanor or criminal offenses. Rule 11B-27.0011(4)(c)5., F.A.C.: Added specific sexual acts that define “sex on duty,” or at any time the officer is acting under the color of authority as a Commission-certified criminal justice officer, and is not done for a bona fide medical purpose or in the lawful performance of the officer’s duty. Rule 11B-27.0011(4)(c)11., F.A.C.: Added the offense of “public nudity” to the list of acts or conduct of an officer for failure to maintain good moral character and defines “public nudity.” Rule 11B-27.0011(4)(d), F.A.C.: Added the current evidentiary rules and accepted testing practices for drug testing listed in Sections 112.0455, 440.102, or 944.474, F.S. Rule 11B-27.0011(8), F.A.C.: Deleted rule text that discloses where individuals may obtain CJSTC forms. Rule 11B-27.002, F.A.C., and Rule 11B-27.0022(2) old(a), F.A.C.: Amended, in rule and on the Employment Background Investigative Report Form CJSTC-77 form, the requirement for door-to-door neighborhood checks from mandatory to recommended. Rule 11B-27.00212(14), F.A.C.: Revised to require officers, who have been separated from employment or appointment for failure to complete the Commission’s Firearms Qualification Standard, to complete the required training within six months of the date the officer separated from employment or appointment, or comply with the certification or reactivation of certification requirement(s) in subsection 11B-27.002(1), F.A.C., prior to re-employment. Rule 11B-27.00213(2)(b), F.A.C.: Deleted the requirement on the CMS Firearms Performance Evaluation form CJSTC-4 CMS to shoot with a rifle or carbine in the “4 and 5 zone” of the B-29 reduced police silhouette target. Rule 11B-27.0022(2) new(a), F.A.C.: Revised the Authority for Release of Information form CJSTC-58 to include new language for obtaining additional information needed to determine the good moral character of an applicant. Rule 11B-27.0022(3), F.A.C.: Deleted the requirement for individuals to electronically submit the Employment Affidavit of Compliance form CJSTC-60 via the Commission’s Automated Training Management System. Rule 11B-

27.004(12)(a), F.A.C.: Revised to allow cases to be “no caused” when a violation has been committed more than eight years prior to Commission action at a Probable Cause Determination Hearing. Rule 11B-27.005(5)(a)16. – 17, F.A.C.: Added “Bribery or unlawful compensation or reward for official behavior,” in Sections 838.015 and 838.016, F.S., to the enumerated felony offenses, absent aggravating or mitigating circumstances, with a recommended penalty of revocation. Rule 11B-27.005(5)(b), F.A.C.: Added “video voyeurism,” (Section 810.145, F.S.) to the enumerated misdemeanor offenses, absent aggravating or mitigating circumstances, with a recommended penalty of “Prospective suspension, and probation with counseling to revocation.” Rule 11B-27.013 and 11B-27.014, F.A.C.: Revised to allow a training center director designee to implement policies set by the Commission or the director, approve documents or make routine requests consistent with the Commission or director’s guidance, and represent the director at meetings.

JUSTIFICATION OF PROPOSED RULE

To update procedures pertaining to the following topic(s): Dating violence and video voyeurism; Sex on duty; Public nudity; Drug testing rules and accepted testing practices; bribery and unlawful compensation or reward for official behavior felony offenses; Information for obtaining CJSTC forms; Video voyeurism misdemeanor offenses; Door-to-door neighborhood background checks; Employment Background Investigative Report form CJSTC-77; Evidentiary rules and accepted testing practices for drug testing; Unlawful taking of controlled substances; Authority for Release of Information form CJSTC-58; CMS Firearms Performance Evaluation form CJSTC-4 CMS; Procedures for compliance with the Commission’s Firearms Qualification Standard; Procedures for processing violations more than eight years old for probable cause determination hearings; Delegation of specific authority to training center director designees.

FEDERAL STANDARDS 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

NAME OF AGENCY: Florida Department of Law Enforcement

Division or Board: Criminal Justice Standards and Training Commission

RULE NO.: RULE TITLE:

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-27.0022	Background Investigations
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
11B-27.014	Implementation of the Federal Law Enforcement Officers Safety Act of 2004

PURPOSE AND EFFECT: To update procedures pertaining to the following topic(s): Dating violence and video voyeurism; Sex on duty; Public nudity; Drug testing rules and accepted testing practices; bribery and unlawful compensation or reward for official behavior felony offenses; Information for obtaining CJSTC forms; Video voyeurism misdemeanor offenses; Door-to-door neighborhood background checks; Employment Background Investigative Report form CJSTC-77; Evidentiary rules and accepted testing practices for drug testing; Unlawful taking of controlled substances; Authority for Release of Information form CJSTC-58; CMS Firearms Performance Evaluation form CJSTC-4 CMS; Procedures for compliance with the Commission's Firearms Qualification Standard; Procedures for processing violations more than eight years old for probable cause determination hearings; Delegation of specific authority to training center director designees.

SUMMARY: Rule 11B-27.0011(4)(b)1., F.A.C.: Added the new statutes for "dating violence" (Section 784.046(15), F.S.) and for "video voyeurism" (Section 810.145, F.S.) to the list of misdemeanor or criminal offenses. Rule 11B-27.0011(4)(c)5., F.A.C.: Added specific sexual acts that define "sex on duty," or at any time the officer is acting under the color of authority as a Commission-certified criminal justice officer, and is not done for a bona fide medical purpose or in the lawful performance of the officer's duty. Rule 11B-27.0011(4)(c)11., F.A.C.: Added the offense of "public nudity" to the list of acts or conduct of an officer for failure to maintain good moral character and defines "public nudity." Rule 11B-27.0011(4)(d), F.A.C.: Added the current evidentiary rules and accepted testing practices for drug testing listed in Sections 112.0455, 440.102, or 944.474, F.S. Rule 11B-27.0011(8), F.A.C.: Deleted rule text that discloses where individuals may obtain CJSTC forms. Rule 11B-27.002, F.A.C., and Rule 11B-27.0022(2) old(a), F.A.C.: Amended, in rule and on the Employment Background Investigative Report Form CJSTC-77 form, the requirement for door-to-door neighborhood checks from mandatory to recommended. Rule 11B-27.00212(14), F.A.C.: Revised to require officers, who have been separated from employment or appointment for failure to complete the Commission's Firearms Qualification Standard, to complete the required training within six months of the date the officer separated from employment or appointment, or comply with the certification or reactivation of certification requirement(s) in subsection 11B-27.002(1), F.A.C., prior to re-employment. Rule 11B-27.00213(2)(b), F.A.C.: Deleted the requirement on the CMS Firearms Performance Evaluation form CJSTC-4 CMS to shoot with a rifle or carbine in the "4 and 5 zone" of the B-29 reduced police silhouette target. Rule 11B-27.0022(2) new(a), F.A.C.: Revised the Authority for Release of Information form CJSTC-58 to include new language for obtaining additional information needed to determine the good moral character of an applicant. Rule 11B-27.0022(3), F.A.C.: Deleted the requirement for individuals to electronically submit the Employment Affidavit of Compliance form CJSTC-60 via the Commission's Automated Training Management System. Rule 11B-27.004(12)(a), F.A.C.: Revised to allow cases to be "no caused" when a violation has been committed more than eight years prior to Commission action at a Probable Cause Determination Hearing. Rule 11B-27.005(5)(a)16. – 17, F.A.C.: Added "Bribery or unlawful compensation or reward for official behavior," in Sections 838.015 and 838.016, F.S., to the enumerated felony offenses, absent aggravating or mitigating circumstances, with a recommended penalty of revocation. Rule 11B-27.005(5)(b), F.A.C.: Added

“video voyeurism,” (Section 810.145, F.S.) to the enumerated misdemeanor offenses, absent aggravating or mitigating circumstances, with a recommended penalty of “Prospective suspension, and probation with counseling to revocation.” Rule 11B-27.013 and 11B-27.014, F.A.C.: Revised to allow a training center director designee to implement policies set by the Commission or the director, approve documents or make routine requests consistent with the Commission or director’s guidance, and represent the director at meetings.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to 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), 943.133(3), 943.1395 FS.

LAW IMPLEMENTED: 943.12, 943.12(3), 943.12(17), 943.13, 943.13(11), 943.13(7), 943.131, 943.132, 943.133, 943.135, 943.139, 943.1395(3), 943.1395, 943.1395(7), 943.1395(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: Tuesday, March 23, 2010, 10:00 a.m.

PLACE: Florida Department of Law Enforcement (FDLE), Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, FL 32308.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donna Hunt at 850-410-8615. FDLE, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, FL 32308.

NAME OF PERSON ORIGINATING PROPOSED RULE: Donna Hunt at 850-410-8615

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 24, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

THE FULL TEXT OF THE PROPOSED RULE IS:

11B-27.0011 Moral Character.

(1) – (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, 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, 817.567, 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, 914.22, 934.03, 944.35, 944.37, and 944.39, F.S.

2. – 3. No change.

(c) The perpetration by an officer of acts or conduct that constitute the following offenses:

1. – 4 No change.

5. Engaging in oral, anal, or vaginal penetration by, or union with, the sexual organ of another person or engaging in anal or vaginal penetration by any other object sex while on duty, or at any time the officer is acting under the color of authority as a Commission-certified criminal justice officer, and not done for a bona fide medical purpose or in the lawful performance of the officer's duty.

6. – 10. No change.

11. Any willful and offensive exposure or exhibition of his or her sexual organs in public or on the private premises of another or so near thereto as to likely be seen except in any place provided or set apart for that purpose.

12~~11~~. Willful failure of the agency administrator to comply with Chapter 943, F.S., as it pertains to the Criminal Justice Standards and Training Commission or Commission rules.

13~~12~~. Intentional abuse of a Temporary Employment Authorization, pursuant to Section 943.131(1), F.S.

(d) A certified officer's unlawful injection, ingestion, inhalation, or other introduction of any controlled substance, as defined in Section 893.03, F.S., into his or her body as evidenced by a drug test in accordance with Sections 112.0455, 440.102, or 944.474, F.S. Testing positive for controlled substances by a urine or blood test that results in a confirmed nanogram level pursuant to Rule 11B-27.00225, F.A.C., or is consistent with and indicative of the ingestion of a controlled substance pursuant to Chapter 893, F.S., and not having a specific nanogram level listed in Rule 11B-27.00225, F.A.C., shall be an affirmative defense to this provision to establish that any such ingestion was lawful. Any test of this kind relied upon by the Commission for disciplinary action, shall comply with the requirements for reliability and integrity of the testing process pursuant to Rule 11B-27.00225, F.A.C.

(5) – (7) No change.

(8) ~~Forms referenced in this rule chapter may be obtained on the following web site: <http://www.fdle.state.fl.us> or by contacting the Florida Department of Law Enforcement, Criminal Justice Professionalism Program, Post Office Box 1489, Tallahassee, Florida 32302-1489, Attention: Bureau of Standards Forms Liaison. 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, _____.~~

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

(1) – (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. No change.

2. An Employment Background Investigative Report, form CJSTC-77, revised ~~August 6, 2009~~ ~~November 8, 2007~~, hereby incorporated by reference. Form CJSTC-77 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.

Rulemaking Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 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,

11B-27.00212 Maintenance of Officer Certification.

(1) – (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 January 29, 2009, 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) – (b) No change.

(c) In the event a certified law enforcement officer fails to meet this standard by June 30 of each reporting year, the officer’s certificate shall become inactive until the employing agency provides documentation to Commission staff establishing that the firearms qualification standard has been satisfied. Active officers who were separated from employment or appointment for not satisfying the firearms qualification standard, and do not meet the standard within six months of separation from employment or appointment, shall comply with the certification or reactivation of certification requirement(s) of subsection 11B-27.002(1), F.A.C., prior to reemployment.

(d) – (e) No change.

(15) No change.

Rulemaking Authority 943.03(4), 943.12(1) FS. Law Implemented 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, _____ . 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 ~~August 6, 2009~~ ~~October 30, 2008~~, 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) – (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, _____ .

11B-27.0022 Background Investigations.

(1) No change.

(2) The employing agency shall, at a minimum, use the following background investigation procedures:

~~(a) Conduct neighborhood checks by attempting, where practical, to have a contact interview with at least three neighbors of the applicant within the previous three years. The content of the interview shall be the same regardless of the means of the neighborhood check. The interview shall be attempted in the following order of preference: in person, by telephone, or by mail.~~

~~(a)~~(b) Obtain previous employment data from prior employers. Criminal justice agencies conducting background investigations have the option of using the Authority for Release of Information, form CJSTC-58, revised August 6, 2009 ~~November 8, 2007~~, pursuant to Sections 943.134(2) and (4), F.S., hereby incorporated by reference. Form CJSTC-58 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)~~(e) Research military records. A copy of the most recently issued DD 214, or other official separation document(s) from the United States Military denoting the discharge status or a copy of the officer's current military identification, shall be maintained in the officer's file at the employing agency. The agency shall document contact with the applicant's commanding officer or designee if the applicant is currently serving on active duty or military reserve to ensure the applicant is compliant with military regulations. Wording on the documentation shall indicate the discharge was any discharge other than dishonorable. A military discharge that is other than an honorable discharge, shall be investigated by the agency. The agency shall submit a Request Pertaining to Military Record, form OMB No. 3095-0029.

~~(c)~~(d) Verify the applicant's response regarding prior history of unlawful conduct through a Florida Crime Information Center and National Crime Information Center records and warrants check.

~~(d)~~(e) Verify the applicant's response regarding unlawful drug use pursuant to subsection 11B-27.0011(2), F.A.C.

(3) The employing agency shall submit or electronically transmit to Commission staff through the Commission's ATMS, a Registration of Employment Affidavit of Compliance form CJSTC-60. The agency shall also submit ~~or electronically transmit to Commission staff through the Commission's ATMS,~~ a completed Employment Background Investigative Report form CJSTC-77, for each officer employed or appointed. The original form CJSTC-77 that has been signed and dated by the investigator and the agency administrator or designee shall be retained in the applicant's file.

Rulemaking Specific Authority 943.03(4) 943.12(1), 943.133(3) FS. Law Implemented 943.133, 943.139 FS. History—New 10-6-82, Amended 1-7-85, Formerly 11B-27.022, Amended 7-13-87, 10-17-90, 5-13-92, 5-14-92, 12-13-92, 9-5-93, 8-7-94, 1-2-97, 7-7-99, 8-22-00, 11-5-02, 11-30-04, 3-27-06, 3-21-07, 6-9-08, _____.

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) – (11) No change.

(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 ~~is authorized to~~ "no cause" the case. Commission staff ~~shall is authorized to~~ 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.

(13) – (14) No change.

Rulemaking Specific 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 _____.

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

(1) – (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. – 15. No change.

16.	<u>Bribery (838.015, F.S.)</u>	<u>Revocation</u>
17.	<u>Unlawful compensation or reward for official behavior (838.016, F.S.)</u>	<u>Revocation</u>

(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. – 7. No change.

8.	<u>Prostitution or lewdness; voyeurism, video voyeurism (796.07, 810.14, 810.145, F.S.)</u>	<u>Prospective suspension, and probation with counseling to revocation</u>
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9. – 15. No change.

(c) – (d) No change.

(6) – (10) No change.

Rulemaking Specific 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, _____.

11B-27.013 Canine Team Certification.

(1) – (7) No change.

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

(a) – (b) No change.

(c) A letter of recommendation for the evaluator applicant from a training center director, or agency administrator, or designee.

Rulemaking Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(17) 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, _____.

11B-27.014 Implementation of the Federal Law Enforcement Officers Safety Act of 2004.

(1) – (3) No change.

(4) Issuance and Maintenance of form CJSTC-600.

(a) A request for form CJSTC-600 shall be made in writing to the Florida Department of Law Enforcement, Criminal Justice Professionalism Program, Post Office Box 1489, Tallahassee, Florida 32302, Attention: Officer Records Section.

1. No change.

2. A training school is allowed to receive up to 200 each of the CJSTC-600 form one time a month with each written request, and the request shall be made on the training school's letterhead signed by the training center director or designee.

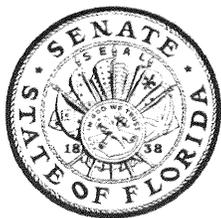
3. No change.

(b) – (c) No change.

(5) – (6) No change.

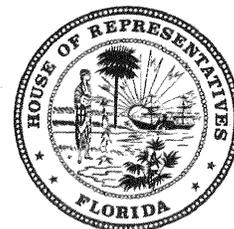
Rulemaking Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12, 943.132 FS. History–New 3-3-08, Amended _____.

JEFF ATWATER
President



Representative Marti Coley, Chair
Senator Arthenia L. Joyner, Vice-Chair
Senator Charles S. "Charlie" Dean, Sr.
Senator J. Alex Villalobos
Representative Oscar Braynon II
Representative Scott Plakon

LARRY CRETUL
Speaker



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Room 120, Holland Building
Tallahassee, Florida 32399-1300
Telephone (850) 488-9110

THE FLORIDA LEGISLATURE
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE

February 2, 2010

Ms. Fern Rossenwasser
Assistant General Counsel
Department of Law Enforcement
2331 Phillips Road
Tallahassee, Florida 32308

RE: Pre-review of Rule Chapter 11B-27

Dear Ms. Rosenwasser:

I have reviewed the draft proposed changes to Rule chapter 11B-27 and have the following comments:

11B-27.004(12)(a) states in part that under the stated circumstances Commission staff "is authorized to 'no cause' the case." It also states that Commission staff "is authorized to reopen a case that has been 'no caused' if new evidence or witnesses become available to Commission staff." By stating that the staff "is authorized" to take the stated actions, these provisions give staff unbridled discretion to take the actions or not under the circumstances described in the rule.

Form CJSTC 58 requires an applicant to provide the last 4 digits of the applicant's social security number. However, **Form CJSTC 77** and the accompanying instructions require an applicant's entire social security number.

An agency shall not collect an individual's social security number unless it has stated in writing the purpose for its collection and unless it is authorized by law to do so, or unless the collection of the social security number is otherwise imperative for the performance of that agency's duties and responsibilities as prescribed by law. Section 119.071(5)(a)2.a., F.S. Section 119.071(5)(a)2.b. and c. require further specific written statements to be provided by the agency. These requirements do not appear to have been met in these rules.

Please do not hesitate to call if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Susan Stafford".

Susan Stafford
Chief Attorney

STATE OF FLORIDA
DEPARTMENT OF LAW ENFORCEMENT
CHAPTER 11B-30, FLORIDA ADMINISTRATIVE CODE
AMENDING RULE 11B-30.006
EXAMINATIONS
SUMMARY OF THE RULE

Deleted the Law Enforcement Traditional State Officer Certification Examination from the State Officer Certification Examination and updated the names of the training schools on the Application for Officer Certification Examination form CJSTC-500.

JUSTIFICATION OF PROPOSED RULE

To update language pertaining to the following topic(s): Application for Officer Certification Examination form CJSTC-500 and Commission-approved criminal justice training schools.

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

NAME OF AGENCY: Florida Department of Law Enforcement

Division or Board: Criminal Justice Standards and Training Commission

RULE NO.: RULE TITLE:

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

PURPOSE AND EFFECT: To update language pertaining to the following topic(s): Application for Officer Certification Examination form CJSTC-500 and Commission-approved criminal justice training schools.

SUMMARY: Deleted the Law Enforcement Traditional State Officer Certification Examination from the State Officer Certification Examination and updated the names of the training schools on the Application for Officer Certification Examination form CJSTC-500.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to 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: Tuesday, March 23, 2010, 10:00 a.m.

PLACE: Florida Department of Law Enforcement (FDLE), Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, FL 32308.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donna Hunt at 850-410-8615. FDLE, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, FL 32308.

NAME OF PERSON ORIGINATING PROPOSED RULE: Donna Hunt at 850-410-8615

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 24, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

THE FULL TEXT OF THE PROPOSED RULE IS:

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

(1) – (2) No change.

(3) “Training school” shall mean those entities that are certified by the Criminal Justice Standards and Training Commission. Training schools may order officer certification examination applicant handbooks and an Application for Officer Certification Examination, form CJSTC-500, revised August 6, 2009 ~~November 8, 2007~~, hereby incorporated by reference, by completing a Training School Certification Examination Supplies Request, form CJSTC-514, revised February 7, 2002, hereby incorporated by reference. Forms CJSTC-500 and CJSTC-514 may be obtained by writing to the Florida Department of Law Enforcement, Criminal Justice Professionalism Program, Certification Examination Section, Post Office Box 1489, Tallahassee, FL 32302-1489, Attention: ADA Coordinator, or by calling (Voice) (850) 410-8602, (TDD): (850) 656-9597. The request form shall be submitted to the Florida Department of Law Enforcement, Criminal Justice Professionalism Program, Attention: Certification Examination Section.

~~(4) All forms referenced in this rule chapter may be obtained on the following web site: <http://www.fdle.state.fl.us> or by contacting the Florida Department of Law Enforcement, Criminal Justice Professionalism Program, Post Office Box 1489, Tallahassee, Florida 32302-1489, Attention: Bureau of Standards, Forms Liaison.~~

Rulemaking Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 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, _____.

STATE OF FLORIDA
DEPARTMENT OF LAW ENFORCEMENT
CHAPTER 11B-35, FLORIDA ADMINISTRATIVE CODE
AMENDING RULE 11B-35.001, 11B-35.003, and 11B-35.006
TRAINING PROGRAMS
SUMMARY OF THE RULE

Rule 11B-35.001, F.A.C.: Restructured and clarified existing rule language. Revised to allow training center director designees administer polices set by the Commission or the director, approve documents or make routine requests consistent with the Commission or director's guidance, and represent the director at meetings. Rule 11B-35.003(5), F.A.C.: Revised to exempt the following individuals from completing the 40-hour CMS First Aid for Criminal Justice Officers course CJK_0031, in the CMS Law Enforcement Auxiliary Officer Basic Recruit Training Program based on their education and training experience: Certified emergency medical technicians, certified paramedics, licensed physicians, licensed physician's assistants, registered nurses or licensed practical nurses, and 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., who have three years experience in emergency medical care. Rule 11B-35.006, F.A.C.: Revised to update the name of advanced training program course(s).

JUSTIFICATION OF RULE

To revise, clarify and update rule language pertaining to the following topic(s): Delegation of specific training center director duties to a designee appointed by the training center director and exemption from completing the CMS First Aid for Criminal Justice Officers Course in the CMS Law Enforcement Auxiliary Officer Basic Recruit Training Program based on education and training experience in the United States or its territories.

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

NAME OF AGENCY: Florida Department of Law Enforcement

Division or Board: Criminal Justice Standards and Training Commission

RULE NO.:	RULE TITLE:
11B-35.001	General Training Programs; Requirements and Specifications
11B-35.003	Basic Recruit Training Programs for Law Enforcement, Correctional, and Correctional Probation Auxiliary Training
11B-35.006	Advanced Training Program

PURPOSE AND EFFECT: To revise, clarify and update rule language pertaining to the following topic(s): Delegation of specific training center director duties to a designee appointed by the training center director and exemption from completing the CMS First Aid for Criminal Justice Officers Course in the CMS Law Enforcement Auxiliary Officer Basic Recruit Training Program based on education and training experience in the United States or its territories.

SUMMARY: Rule 11B-35.001, F.A.C.: Restructured and clarified existing rule language. Revised to allow training center director designees administer policies set by the Commission or the director, approve documents or make routine requests consistent with the Commission or director's guidance, and represent the director at meetings. Rule 11B-35.003(5), F.A.C.: Revised to exempt the following individuals from completing the 40-hour CMS First Aid for Criminal Justice Officers course CJK_0031, in the CMS Law Enforcement Auxiliary Officer Basic Recruit Training Program based on their education and training experience: Certified emergency medical technicians, certified paramedics, licensed physicians, licensed physician's assistants, registered nurses or licensed practical nurses, and 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., who have three years experience in emergency medical care. Rule 11B-35.006, F.A.C.: Revised to update the name of advanced training program course(s).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to 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), 943.17 FS.

LAW IMPLEMENTED: 943.12, 943.12(5), 943.17, 943.17(1)(a) 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: Tuesday, March 23, 2010, 10:00 a.m.

PLACE: Florida Department of Law Enforcement (FDLE), Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, FL 32308.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donna Hunt at 850-410-8615. FDLE, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, FL 32308.

NAME OF PERSON ORIGINATING PROPOSED RULE: Donna Hunt at 850-410-8615

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 24, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

THE FULL TEXT OF THE RULE IS:

11B-35.001 General Training Programs; Requirements and Specifications.

(1) – (4) No change.

(5) The training center director shall ~~ensure that provide to~~ each student is provided with a paper copy of the Commission's currently approved Basic Recruit Training Curriculum applicable to the student's enrollment prior to or at the beginning of the program.

(6) For the Florida CMS Law Enforcement Basic Recruit Training Program, Cross-Over Programs to Florida CMS Law Enforcement Basic Recruit Training Program, and CMS Law Enforcement Auxiliary Prerequisite Course effective April 1, 2008, the training center director shall:

(a) Ensure that each student is taught from and has printed class materials to include the current copy of the curriculum, Florida Statutes, Florida handbook on jury instructions, and CJSTC Course Summary. These materials are to be provided prior to or at the start of the program.

(b) Ensure that ~~Conduct~~ student role-play practicums are conducted, as required in the curriculum, and report the results on a Role-Play Practicum Check Sheet, form CJSTC-3, revised October 30, 2008 created November 8, 2007, hereby incorporated by reference. Form CJSTC-3 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. This form shall be completed by an instructor and maintained in the course file at the training school.

(7) Training center directors shall ensure that instructors are delivering the current Commission-approved training programs in compliance with Commission rules.

(8) Training curricula and delivery requirements shall be maintained for Commission-approved Basic Recruit, Advanced, and Specialized Training Programs within the Florida Department of Law Enforcement, Criminal Justice Professionalism Program.

(9) Student academic performance in courses.

(a) – (b) No change.

(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 Specified Specialized Training Program Courses, pursuant to subsection (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) – (e) No change.

(10) – (11) No change.

(12) Student attendance requirements for Commission-approved Basic Recruit Training Programs outlined in subsection 11B-35.002(1), F.A.C., Specialized Training Programs outlined in subsection 11B-35.007(1), F.A.C., and Advanced Training Program Courses outlined in paragraph 11B-35.006(1)(b), F.A.C.

(a) No change.

(b) Each student shall attend all sessions of a training course except for absences approved by the training center director or designee. Documentation specifying the reason for the excused absence shall be maintained in the course file at the training school. ~~The training center director shall maintain in the student or course file at the training school, documentation specifying the reason for excused absence(s).~~ Students shall be responsible for class work missed during absences. The training center director or designee shall determine the content and quantity of makeup work. Documentation of the student's make-up work shall be signed by the training center director or designee and maintained in the student or course file at the training school.

(c) No change.

(13) – (15) No change.

(16) Proof of course completion. A training school ~~The training center director~~ shall, within thirty days following the completion of a Commission-approved Basic Recruit, Advanced, or Specialized Training Program Course, provide to a student who has successfully completed the program, a certificate, which shall contain at a minimum, the name of the training school, the student's name, the dates of the program or course, the number of program or course contact hours, the title of the Basic Recruit, Advanced, or Specialized Training Program Course, and the current training center director's signature. Basic Recruit Training Completion Certificates shall contain the Curriculum Version Number for the course taught. In addition to a certificate, the training school shall provide to a student, who has successfully completed a Commission-approved Basic Recruit Training Program and will be

required to pass the State Officer Certification Examination, an Examination Admission Voucher, form CJSTC-517, revised November 8, 2007, hereby incorporated by reference. Form CJSTC-517 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.

~~(17) All forms referenced in this rule chapter may be obtained on the following web site: <http://www.fdle.state.fl.us>, or by contacting the Florida Department of Law Enforcement, Criminal Justice Professionalism Program, Post Office Box 1489, Tallahassee, Florida 32302, Attention: Bureau of Standards, Forms Liaison.~~

~~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 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, _____.~~

11B-35.0024 Student Performance in Commission-approved High-Liability Basic Recruit Training Courses and Instructor Training Courses Requiring Proficiency Demonstration.

(1) – (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 Courses, CMS Criminal Justice Firearms Course, CMS Firearms Instructor Courses, CMS Law Enforcement Vehicle Operations Course, CMS Vehicle Operations Instructor Courses, CMS First Aid for Criminal Justice Officers Course, and CMS First Aid Instructor Courses.

(a) – (b) No change.

(c) CMS Criminal Justice Firearms Course.

1. The CMS Criminal Justice Firearms Course shall be delivered to students enrolled in a Commission-approved Basic Recruit Training Program.

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 the B-21E Target or equivalent, 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 August 6, 2009 ~~October 30, 2008~~, 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. The B-21E target is commercially available through retailers. Form CJSTC-4 CMS shall be maintained in the student or course file.

(d) – (h) No change.

(4) No change.

Rulemaking Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 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, _____.

11B-35.003 Basic Recruit Training Programs for Law Enforcement, Correctional, and Correctional Probation Auxiliary Training.

(1) – (4) No change.

(5) Individuals exempt from completing the 40-hour CMS First Aid for Criminal Justice Officers course CJK 0031, in the CMS Law Enforcement Auxiliary Officer Basic Recruit Training Program, based on education and training experience in the United States or its territories, shall complete the 111-hour CMS Law Enforcement Auxiliary Officer Prerequisite Course, pursuant to paragraph (6)(a) of this rule section, and the applicable high-liability courses pursuant to paragraphs (6)(b) – (d) of this rule section. The following individuals shall possess an active certificate or license to be eligible for the exemption:

(a) Certified emergency medical technicians who have three years experience.

(b) Certified paramedics who have three years experience.

(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., who have three years experience in emergency medical care.

(6)(5) CMS Law Enforcement Auxiliary Officer Basic Recruit Training Program number 1180 (Effective April 1, 2008).

(a)	CMS Law Enforcement Auxiliary Officer Prerequisite Course	Course Number	Course Hours
1.	Law Enforcement Auxiliary Introduction	CJK_0240	27.0
2.	Law Enforcement Auxiliary Patrol and Traffic	CJK_0241	19.0
3.	Law Enforcement Auxiliary Investigations	CJK_0242	17.0
4.	Dart-Firing Stun Gun	CJK_0422	8.0
5.	CMS First Aid for Criminal Justice Officers	CJK_0031	40.0
	CMS Law Enforcement Auxiliary Officer Prerequisite Course	Sub-total	111.0
(b)	CMS Criminal Justice Firearms This course shall be taught by a Commission-certified high-liability instructor at a training school or agency.	CJK_0040	80.0
(c)	CMS Criminal Justice Defensive Tactics This course shall be taught by a Commission-certified high-liability instructor at a training school or agency.	CJK_0051	80.0
(d)	CMS Law Enforcement Vehicle Operations **CMS Law Enforcement Vehicle Operations is optional and is based on employing agency requirements. If required, the course shall be taught by a Commission-certified high-liability instructor at a training school or agency. If CMS Law Enforcement Vehicle Operations is not instructed, the total program hours will be reduced to 271 hours.	CJK_0020	48.0
	CMS Law Enforcement Auxiliary Officer Program	Total	**319.0

(7)(6) Correctional Auxiliary Officer Basic Recruit Training Program number 501 (Effective January 1, 1997).

(a) – (c) No change.

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

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. – 19. No change.

20.	074	Substance Abuse and Awareness and Education	40
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21. – 43. No change.

44.	1164	Inmate Manipulation (Effective 6/1/06 4/16/06)	40
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45. No change.

(2) – (5) No change.

Rulemaking Authority 943.03(4), 943.12(1), (2) FS. Law Implemented 943.12(5), 943.17(1) 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,

STATE OF FLORIDA

DEPARTMENT OF LAW ENFORCEMENT

Chapter 11C-6, FLORIDA ADMINISTRATIVE CODE

AMENDING RULES 11C-6.004, F.A.C.

PROCEDURES FOR REQUESTING CRIMINAL HISTORY RECORDS

SUMMARY OF PROPOSED RULE

Revises fees for criminal history checks.

JUSTIFICATION OF PROPOSED RULE

To update the rule to conform to statutory criminal history fee requirements.

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: RULE TITLE
11C-6.004: Procedures for Requesting Criminal History Records

PURPOSE AND EFFECT: To update the rule to conform to statutory criminal history fee requirements.

SUMMARY: Revises fees for criminal history checks.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to 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 FS.

LAW IMPLEMENTED: 943.053(3), 943.0542, 943.056 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: Tuesday, March 23, 2010, 10:00 a.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, FL 32308.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Martha Wright at 850-410-8113 or marthawright@fdle.state.fl.us, Florida Department of Law Enforcement, Criminal Justice Information Services, 2331 Phillips Road, Tallahassee, Florida 32308

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha Wright at 850-410-8113

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 24, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

11C-6.004 Procedures for Requesting Criminal History Records.

(1) – (2) No change.

(3) Fees.

(a) No change.

(b) As provided in subsection 943.053(3), F.S., a processing fee of ~~\$24~~ \$23 shall be charged for each subject inquired upon under paragraphs (2)(d) through (f), except that a fee of \$8 shall be charged for each subject inquired upon for vendors of the Department of Children and Family Services, the Department of Juvenile Justice, and the Department of Elderly Affairs; 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; a fee of \$18 shall be charged for each volunteer subject inquired upon under the National Child Protection Act of 1993, 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. If the Executive Director of the Department determines that conducting the record check would be in the interest of law enforcement or criminal justice or that good cause otherwise exists, the prescribed fee may be waived or reduced, as provided in subsection 943.053(3), F.S.

(c) The processing fee charged for each subject inquired upon via the internet shall be the fee authorized for inquiries from persons in the private sector in subsection 943.053(3), F.S. This fee shall be assessed based on the inquiry regardless of whether the results show no criminal history record or some possible records. When an inquiry on one subject is made and more than one person is presented as possibly the same person, the customer will receive one criminal history record as a result of the prescribed payment. If the customer wants additional criminal history records from the list of persons presented for this same inquiry, a processing fee of ~~\$24~~ \$8.00 shall be charged for each additional criminal record.

(4) No change.

Rulemaking Specific 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, _____.

STATE OF FLORIDA

DEPARTMENT OF LAW ENFORCEMENT

Chapter 11C-7, FLORIDA ADMINISTRATIVE CODE

AMENDING RULES 11C-7.006 and 11C-7.007, F.A.C.

PROCEDURES ON COURT-ORDERED EXPUNCTIONS AND SEALINGS

SUMMARY OF PROPOSED RULE

The amended rule simplifies the language in the State Attorney's endorsement section of FDLE form 40-021 Application for Certification of Eligibility.

JUSTIFICATION OF PROPOSED RULE

To implement housekeeping changes to the State Attorney's Endorsement on FDLE form 40-021 Application for Certification of Eligibility.

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: RULE TITLE
11C-7.006: Procedures on Court-Ordered Expunctions
11C-7.007: Procedures on Court-Ordered Sealings

PURPOSE AND EFFECT: To implement housekeeping changes to the State Attorney's Endorsement on FDLE form 40-021 Application for Certification of Eligibility.

SUMMARY: The amended rule simplifies the language in the State Attorney's endorsement section of FDLE form 40-021 Application for Certification of Eligibility.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to 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), 943.058(2), 943.059(2) FS.

LAW IMPLEMENTED: 943.0585, 943.059 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: Tuesday, March 23, 2010, 10:00 a.m.

PLACE: Florida Department of Law Enforcement , 2331 Phillips Road, Tallahassee, FL 32308.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Louis Sloan at 850-410-7973 or louisloan@fdle.state.fl.us, Florida Department of Law Enforcement, Criminal Justice Information Services, 2331 Phillips Road, Tallahassee, Florida 32308.

NAME OF PERSON ORIGINATING PROPOSED RULE: Louis Sloan at 850-410-7973

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 24, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

11C-7.006 Procedures on Court-Ordered Expunctions.

(1) Prior to petitioning the court to expunge a criminal history record, the subject must apply to the Department for a certificate of eligibility for expunction. The application for the certificate of eligibility must include:

(a) No change.

(b) A completed Application for Certification of Eligibility. The subject must complete section A of the application. The Application for Certification of Eligibility (form number FDLE 40-021, rev. ~~December 2009~~ July 2006), incorporated here by reference, may be obtained from:

1. - 2. No change.

(c) - (e) No change.

(2) - (6) No change.

Rulemaking Specific Authority 943.03(4), 943.058(2) FS. Law Implemented 943.0585 FS. History–New 8-5-92, Amended 7-7-99, 8-22-00, 6-9-08, _____.

11C-7.007 Procedures on Court-Ordered Sealings.

(1) Prior to petitioning the court to seal a criminal history record, the subject must apply to the Department for a certificate of eligibility for sealing. The application for the certificate of eligibility must include:

(a) No change.

(b) A completed Application for Certification of Eligibility. The subject should complete section A of the application. The Application for Certification of Eligibility (form number FDLE 40-021, rev. ~~December 2009~~ July 2006) and incorporated by reference) may be obtained from:

1. -2. No change.

(c) - (d) No change.

(2) - (6) No change.

Rulemaking Specific Authority 943.03(4), 943.059(2) FS. Law Implemented 943.059 FS. History–New 8-5-92, Amended 7-7-99, 8-22-00, 6-9-08, _____.

STATE OF FLORIDA

DEPARTMENT OF LAW ENFORCEMENT

Chapter 11D-6, FLORIDA ADMINISTRATIVE CODE

AMENDING RULES 11D-6.001 and 11D-6.003, F.A.C.

DNA DATABASE COLLECTION

SUMMARY OF PROPOSED RULE

The amendments revise the definitions and procedures for the collection of DNA samples to comport with technological advances relating to DNA collection and record keeping.

JUSTIFICATION OF PROPOSED RULE

To update the definitions and procedures as applied to the collection of specimens for the DNA Investigative Support Database and update the rule language to conform to statutory changes.

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 Local Law Enforcement Assistance

RULE NO:	RULE TITLE
11D-6.001:	Definitions
11D-6.003:	Procedures

PURPOSE AND EFFECT: To update the definitions and procedures as applied to the collection of specimens for the DNA Investigative Support Database and update the rule language to conform to statutory changes.

SUMMARY: The amendments revise the definitions and procedures for the collection of DNA samples to comport with technological advances relating to DNA collection and record keeping.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to 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), 943.325(9)(d) FS.

LAW IMPLEMENTED: 943.325 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: Tuesday, March 23, 2010, 10:00 a.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, FL 32308.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Christopher Carney (850) 617-1337 or Lisa Bohl (850) 617-1303, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308.

NAME OF PERSON ORIGINATING PROPOSED RULE: Christopher Carney (850) 617-1337

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 24, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

11D-6.001 Definitions.

As used in Rule 11D-6.003, F.A.C., the following definitions apply:

(1) "DNA sample" means a buccal or other approved biological specimen capable of undergoing DNA analysis.

~~"Blood sample" shall mean a specimen of whole blood, at least 7 cc in volume.~~

(2) "Buccal Blood sample" shall mean a specimen of whole blood, at least 7 cc in volume, epithelial cells collected from the cheek in the oral cavity utilizing an FDLE-approved swab collection kit. "Other approved biological specimen" shall mean epithelial cells collected from the cheek in the oral cavity utilizing an FDLE approved swab collection kit.

(3) "Other approved biological specimen" shall mean a specimen of whole blood, at least 7 cc in volume. "Offender" shall mean a person meeting any of the criteria specified in Section 943.325(1), 943.325(10)(e), 943.325(11), 947.1405(7)(a)9., 948.03(1)(n) or 948.30(1)(i), F.S.

(4) "Qualifying Offender" shall mean a person as specified in Section 943.325(2), 943.325(9), 947.1405(7)(a)., or 948.30(1) F.S."

(5) FALCON is Florida's Integrated Criminal History System. This system allows for the biometric identification of criminal subjects.

(6) "Rapid-ID Edge Device" shall mean an electronic fingerprint device attached to "FALCON" and available to criminal justice agencies within the state. This device and accompanying software allows agencies responsible for sample collection to determine if a qualifying offender DNA sample is on file, or if collection of the sample is required.

Rulemaking Specific Authority 943.03(4), 943.325(9)(d) FS. Law Implemented 943.325 FS. History--New 7-4-90, Amended 7-6-99, 8-22-00, 11-5-02, 3-21-07, _____.

11D-6.003 Procedures.

(1) ~~DNA Sample collection. Blood sample collection.~~

(a) A qualifying offender providing DNA samples must be positively identified in the manner specified by the Oral Swab Collection Kit Instructions and Form (FDLE/FOR-005, rev. September, 2009 and incorporated by reference) prior to taking the DNA samples from such offender. A qualifying offender may also be identified through use of the Falcon Rapid-ID Edge device. The subject offender providing a blood sample must be positively identified in the manner specified by the FDLE Request for DNA Database Entry Form (FDLE/FOR-003, rev. September, 2000 and incorporated by reference) prior to taking the blood samples from such offender.

1. DNA samples submitted from qualifying offenders not identified through use of the Falcon Rapid-ID Edge device must be accompanied by a completed Swab Collection Kit form (FDLE/FOR-005). The imprinting of the offender's left and right thumbs, by means of an inked impression, in the spaces indicated on the form shall be completed as well. Inked fingerprint impressions must be legible for fingerprint classification and comparison purposes. DNA samples accompanied by one or more illegible inked fingerprint impressions will be unacceptable for entry into the DNA Database and will be rejected by FDLE. The collecting agency must then submit a new DNA sample and completed form.

2. DNA Samples submitted from qualifying offenders whose identification is verified using the FALCON Rapid-ID Edge device must be accompanied by the printout and barcode generated by the application. Any required information not captured by the Falcon/Rapid-ID DNA Availability application shall be filled out on the Swab Collection Kit form (FDLE/FOR-005).

(b) When positive identification of the qualifying offender is accomplished, ~~DNA two (2) blood~~ samples shall be taken from the qualifying offender in the manner described in Section 943.325(3)(2), F.S.

(c) Such samples shall be taken using only the oral swab blood sample collection kit approved and provided by the Department of Law Enforcement. Agencies may obtain additional kits from FDLE, DNA Database, P. O. Box 1489, Tallahassee, Florida 32302-1489.

~~(d) Collection, labeling, storage, handling, and transmittal of DNA Samples shall be as prescribed in the printed instructions included with each oral swab sample collection kit. The collecting agency should forward DNA samples to the Department within 7 working days of collection. Prior to or immediately after the taking of the samples, the FDLE Request for DNA Database Entry Form (FDLE/FOR-003) must be completed, providing all information requested on the form. The imprinting of the offender's left and right thumbs, by means of an inked impression, in the spaces indicated on the form shall be completed as well. Inked fingerprint impressions must be sufficiently legible for fingerprint classification and comparison purposes. Blood samples accompanied by one or more illegible inked fingerprint impressions are unacceptable for entry into the DNA Database and will be rejected by FDLE. The collecting agency must then submit a new blood sample and completed form. The person taking, or witnessing the taking, of the blood samples shall certify, under oath and before a notary or a law enforcement or correctional officer, as indicated on the form, that two blood samples were in fact taken from the offender thus positively identified. Additional supplies of these forms can be obtained from FDLE, DNA Database, P. O. Box 1489, Tallahassee, Florida 32302-1489.~~

~~(e) Collection, labeling, storage, handling, and transmittal of other approved biological specimens shall be as prescribed in the printed instructions included with each oral swab sample collection kit. The collecting agency should forward oral swab samples to the Department within 7 working days of collection.~~

~~(2) Removal of DNA Information from the DNA Database. Persons seeking removal of their DNA information from the DNA Investigative Support Database shall mail certified copies of the required documentation as described in 943.325(16) to the FDLE DNA Investigative Support Database, P. O. Box 1489, Tallahassee, Florida 32302-1489. Other approved biological specimen collection.~~

~~(a) A subject offender providing an other approved biological specimen must be positively identified in the manner specified by the Oral Swab Collection Kit Instructions (FDLE/FOR-005, May 2001, and incorporated by reference) prior to taking the other approved biological specimens from such offender.~~

~~(b) When positive identification of the offender is accomplished, approved biological specimens (oral swabs) shall be taken from the offender in the manner described in Section 943.325(2), F.S.~~

~~(c) Such samples shall be taken using only the oral swab collection kit approved and provided by the Department of Law Enforcement. Agencies may obtain additional kits from FDLE, DNA Database, P. O. Box 1489, Tallahassee, Florida 32302-1489.~~

~~(d) Prior to or immediately after the taking of the samples, the FDLE Oral Swab Collection Kit (FDLE/FOR-005) must be completed, providing all information requested on the form. The imprinting of the offender's left and right thumbs, by means of an inked impression, in the spaces indicated on the form shall be completed as well. Inked fingerprint impressions must be sufficiently legible for fingerprint classification and comparison purposes. Approved biological specimens accompanied by one or more illegible inked fingerprint impressions are unacceptable for entry into the DNA Database and will be rejected by FDLE. The collecting agency must then submit a new approved biological specimen and completed form. Additional supplies of these forms can be obtained from FDLE, DNA Database, P. O. Box 1489, Tallahassee, Florida 32302-1489.~~

~~(e) Collection, labeling, storage, handling, and transmittal of other approved biological specimens shall be as prescribed in the printed instructions included with each oral swab sample collection kit. The collecting agency should forward oral swab samples to the Department within 7 working days of collection.~~

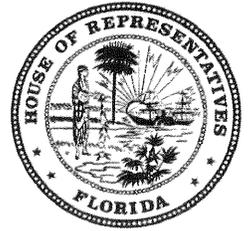
Rulemaking Specific Authority 943.03(4), 943.325(9)(d) FS. Law Implemented 943.325 FS. History—New 7-4-90, Amended 7-6-99, 8-22-00, 7-29-01, 11-5-02, _____.

JEFF ATWATER
President



Representative Marti Coley, Chair
Senator Arthenia L. Joyner, Vice-Chair
Senator Charles S. "Charlie" Dean, Sr.
Senator J. Alex Villalobos
Representative Oscar Braynon II
Representative Scott Plakon

LARRY CRETUL
Speaker



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AND GENERAL COUNSEL
Room 120, Holland Building
Tallahassee, Florida 32399-1300
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THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

February 2, 2010

Ms. Fern Rossenwasser
Assistant General Counsel
Department of Law Enforcement
2331 Phillips Road
Tallahassee, Florida 32308

RE: Pre-review of Rule Chapter 11D-6

Dear Ms. Rosenwasser:

I have reviewed the draft proposed changes to Rule chapter 11D-6 and have the following comments:

11D-6.001(4) states that a Qualifying Offender "shall mean a person meeting any of the criteria specified in Section 943.325(1)(g), 943.325(9), 947.1405(7)(a)9., 948.30(1)(i) F.S." I believe your intention is to state that the person meets the criteria in any of the listed statutes, and not any of the criteria in those statutes.

11D-6.003 incorporates by reference an Oral Swab Collection Kit form. Although you do not need to file the kit with the committee, the form should be provided for review.

Please do not hesitate to call if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Susan Stafford".

Susan Stafford
Chief Attorney

STATE OF FLORIDA

DEPARTMENT OF LAW ENFORCEMENT

Chapter 11G-2, FLORIDA ADMINISTRATIVE CODE

AMENDING RULES 11G-2.005 and 11G-2.006, F.A.C.

STANDARD INVESTIGATION PROCEDURES

SUMMARY OF PROPOSED RULE

The amended rule language clarifies information required in an autopsy report; and updates the Medical Examiners' Practice Guidelines.

JUSTIFICATION OF PROPOSED RULE

To make housekeeping revisions and update the information required in autopsy reports and to update the Medical Examiners' Practice Guidelines.

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

Medical Examiners Commission

RULE NO: RULE TITLE
11G-2.005: Records, Autopsy Report
11G-2.006: Practice Guidelines

PURPOSE AND EFFECT: To make housekeeping revisions and update the information required in autopsy reports and to update the Medical Examiners' Practice Guidelines.

SUMMARY: The amended rule language clarifies information required in an autopsy report; and updates the Medical Examiners' Practice Guidelines.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 406.04, FS.

LAW IMPLEMENTED: 406.075, 406.11, 406.13, 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: Tuesday, March 23, 2010, 10:00 a.m.

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, FL 32308.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Doug Culbertson, Medical Examiner Commission Staff, Florida Department of Law Enforcement, P.O. Box 1489, Tallahassee, Florida, 32302, Tel. 850-410-8609.

NAME OF PERSON ORIGINATING PROPOSED RULE: Doug Culbertson at (850) 410-8609

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 24, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

11G-2.005 Records, Autopsy Report.

(1) The District Medical Examiner shall keep among the official records:

(a) – (f) No change.

(2) The detailed findings of each autopsy shall be included in an autopsy report. The autopsy report shall be typed and shall only include the objective results of the examination of the body and the toxicologic samples. The circumstantial history and toxicologic correlations shall constitute a separate portion of the investigative report.

(3) No change.

Rulemaking Specific Authority 406.04 FS. Law Implemented 406.11, 406.13 FS. History—New 10-18-81, Formerly 11G-2.05, Amended _____.

11G-2.006 Practice Guidelines.

The duties and standards of care of a medical examiner are to be consistent with those contained in the “Practice Guidelines for Florida Medical Examiners, Sponsored by the Florida Association of Medical Examiners,” which publication is dated 11-19-2009 ~~8-9-2006~~ and is hereby incorporated by reference.

Rulemaking Specific Authority 406.04 FS. Law Implemented 406.075, 406.11, 406.13 FS. History—New 7-29-2001, Amended 11-30-04, 3-21-2007, _____.