

AGENDA
FLORIDA DEPARTMENT OF LAW ENFORCEMENT
December 9, 2008

SUBSTITUTE AGENDA

ITEM 1. Respectfully submit the **Minutes of the August 12, 2008 Cabinet Meeting.**

(See Attachment 1)

RECOMMEND APPROVAL

ITEM 2. Respectfully submit the **Florida Department of Law Enforcement's FY 2008-09 1st Quarter Performance Report, with Contracts, Agreements and Purchases over \$100,000 for July 1 through September 30, 2008.**

(See Attachment 2)

RECOMMEND APPROVAL

ITEM 3. Respectfully submit the **Florida Department of Law Enforcement's FY 2009-2010 Legislative Budget Request.**

(See Attachment 3)

RECOMMEND APPROVAL

ITEM 4. Respectfully submit the **Florida Department of Law Enforcement's 2009 Proposed Legislative Initiatives.**

(See Attachment 4)

RECOMMEND APPROVAL

ITEM 5. Respectfully submit **Notice of Proposed Rules** for the following:

11-1.0041 - Delegation of Authority - Specifies that the approval of the Governor and Cabinet acting as head of the Department is required for rulemaking under Chapter 120, F.S.

11B-27 – Officer Certification and Employment – Adds language to provide for “recantation of a false statement” that occurs during the performance of work duties or in the course of an administrative investigation. Reduces mandatory retraining cycle for use-of-force training. Adds elder abuse training for basic recruit training programs and mandatory retraining as required by 2008 statutory revision to Section 943.17296, F.S.

11C-7.008 – Administrative Expunge – Requests for administrative expunction from the Florida criminal history file of arrests made in error or contrary to law no longer require an affidavit from the head of the arresting agency. If arrested in error based on a warrant, capias, or pick-up order, the request for administrative expunge may be made by the head of the arresting agency, the sheriff of the warranting county, or the state attorney of the judicial circuit where the document was issued.

11C-10 - Missing Endangered Persons Clearinghouse – Implements the procedures for the collection and submission of DNA for persons missing over 90 days.

11N-1 - Violent Crime and Drug Control Council – Complies with mandate of the Florida Violent Crime Act of 1993 regarding the Florida Violent Crime and Drug Control Council. Requires implementation of statutorily mandated procedures for Criminal Gang Investigative Funding and establishes the Drug Control Strategy and Criminal Gang Committee from Council membership to authorize certain funding.

(See Attachment 5)

RECOMMEND APPROVAL

**MINUTES
FLORIDA DEPARTMENT OF LAW ENFORCEMENT**

August 12, 2008

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 April 29, 2008 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 2007-08, 3rd Quarter Performance Report with Contracts, Agreements and Purchases over \$100,000 for January 1 through March 31, 2008.**

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 FY 2007-2008 Annual Performance Report, with Contracts, Agreements and Purchases over \$100,000 for April 1 through June 30, 2008.**

Report approved without objection per Governor Crist.

ITEM 4. Respectfully submit the **Florida Department of Law Enforcement's FY 2008-2009 Annual Performance Contract.**

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



Gerald M. Bailey
Commissioner



Debbie Haire
Executive Assistant



1st Quarter Performance Report

Fiscal Year 2008 - 2009

Gerald M. Bailey, Commissioner

**1st Quarter
Performance****Standard
FY 08-09****Executive Direction and Support Program****Executive Direction and Support Services**

• Administrative support costs as a percent of total agency costs	4.5%	4%
• Number of grants disbursed	105	575
• Total number of agencies and jails accredited	168	156
• Number of cases awarded emergency violent crime funds	6 ¹	73

Investigations and Forensic Science Program**Crime Laboratory Services**

• Number / percent of lab service requests completed	20,696 / 102%	78,000 / 95%
• Average number of days to complete lab service requests		
1. AFIS (Automated Fingerprint Identification System)	27	45
2. CER (Computer Evidence Recovery)	66	70
3. Chemistry	19	30
4. Crime Scene	33	30
5. Firearms	80	80
6. Latents	35	60
7. Microanalysis	124	115
8. Serology / DNA	52	111
9. Toxicology	33	40
• Number of DNA samples added to the DNA Database	24,143 ²	36,000
• Number of crime scene service requests completed	131 ³	600

Investigative Services

• Number of criminal investigations worked	858	2,500
• Number / percent of criminal investigations closed	168 ⁴ / 20% ⁴	900 / 46%
• Number / percent of closed criminal investigations resolved	147 ⁴ / 88%	702 / 78%
• Number / percent of criminal investigations closed resulting in arrest	109 ⁴ / 65%	585 / 65%
• Number of short-term investigative assists worked	2,495 ⁵	3,678
• Number of domestic security concerns reported and responded to by Regional Domestic Security Task Forces	296	1,000

Mutual Aid and Prevention Services

• Number of dignitaries provided with FDLE protective services	16	52
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Public Assistance Fraud Investigative Services

• Amount of fraudulent benefits withheld as a result of public assistance fraud investigations	\$3.8M ⁶	\$20.1 M
• Number of public assistance fraud investigations conducted	818 ⁶	5,625

Florida Capitol Police Program**Capitol Police Services**

• Number of criminal incidents per 1,000 employees	2.71	9.38
• Number of officer patrol hours	26,793 ⁷	96,432
• Number of calls for service	1,182 ⁷	8,000

**1st Quarter
Performance****Standard
FY 08-09**

Information Program

Network Services

• Percentage of responses from FCIC hot files that contain substantive information within defined timeframes	100%	98%
• Percentage of time FCIC is running and accessible	99.99%	99.50%
• Percentage response to criminal history record check customers within defined timeframes	100%	94%
• Percentage of criminal arrest records received electronically (through AFIS) for entry into the criminal history system	93%	90%
• Number of certified operators	63,477	56,177

Prevention and Crime Information Services

• Percentage of criminal history information records compiled accurately	96%	93%
• Number of responses to requests for criminal history record checks	666,244	2,000,000
• Number of registered sexual predators / offenders identified	49,967	37,865
• Number of missing children cases worked through MCIC	2,225	4,000
• Number of arrest records created and maintained	20,217,004	17,686,354
• Number of disposition records added to the criminal history file	242,432	750,000

Professionalism Program

Law Enforcement Training and Certification Services

• Number / percent of individuals who pass the basic professional certification examination for law enforcement officers, correctional officers, and correctional probation officers	1,457 / 79%	6,400 / 80%
• Number of course curricula and examinations developed / revised	162	135
• Number of examinations administered	1,841	8,000
• Number of individuals trained by the FCJEI	140 ⁸	840
• Number of law enforcement officers trained by D.A.R.E.	0 ⁸	160
• Number of professional law enforcement certificates issued	5,380 ⁹	25,000
• Number of domestic security training courses delivered	0 ¹⁰	120

Law Enforcement Standards Compliance Services

• Percentage of training schools in compliance with standards	81%	80%
• Number of breath-testing instruments inspected	217	491
• Number of discipline referrals processed for state and local LEOs, COs, and CPOs pursuant to Chapter 120, F.S.	409	1,500
• Number of criminal justice officer disciplinary actions	172	452
• Number of program and financial compliance audits performed	696	2,000
• Number of records audited to validate the accuracy and completeness of ATMS2 record information	2,901	8,000



Justifications

- ¹ **Number of cases awarded emergency violent crime funds** – Because of statewide reductions, the amount of funds being awarded was significantly less than expected.
- ² **Number of DNA samples added to the DNA database** – Due to a change in legislation, the DNA Database began collection of samples for all felony convictions effective July 1, 2007. This significantly increased the number of incoming samples. The Department anticipates this performance to continue.
- ³ **Number of crime scene service requests completed** – FDLE responded to all requests for crime scene assistance received from local law enforcement agencies. The number of requests received from local agencies was fewer than anticipated.
- ⁴ **Investigative Services measures** – FDLE is committed to working complex, protracted high impact criminal investigations. Because of their complexity, they are lengthy and labor intensive, resulting in agents investing more hours in fewer cases over a longer period of time.
- ⁵ **Number of short-term investigative assists worked** – This measure captures assistance provided to law enforcement agencies whose jurisdiction, resources or expertise may be limited. Short-term cases initiated by FDLE that do not meet the investigative criteria to qualify as a major case are also included. More assists and short-term cases were conducted than anticipated.
- ⁶ **Public Assistance Fraud (PAF) Investigative Services measures** – Changes in federal food stamp program policies have resulted in a decrease of the number of administrative hearing referrals received. Additionally, the PAF program is engaged in more complex criminal investigations which require more time and effort to investigate, resulting in fewer case closures.
- ⁷ **Capitol Police Services measures** – This number of calls for service fluctuates throughout the fiscal year depending upon events scheduled at the Capitol Building. Additionally, due to a more proactive approach during patrol (reflected by a higher number of officer patrol hours), the number of calls for service has decreased.
- ⁸ **Law Enforcement Training and Certification Services measures** – Because of statewide budget reductions, training opportunities for officers at local agencies, including DARE officers, were significantly reduced, resulting in fewer officers receiving training and certification.
- ⁹ **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.
- ¹⁰ **Number of domestic security training courses delivered** – Between 2002 and 2004, emphasis was placed on FDLE delivering domestic security training. As a result, most existing law enforcement personnel have received required training. Only new law enforcement officers and first responders now require training. Additionally, domestic security training courses are available online and at the local level. This has resulted in a decrease in the number of training courses provided through certified training schools.



Third Edition Deck of Cold Case Playing Cards Unveiled. FDLE, the Department of Corrections, the Attorney General's Office and the Florida Association of Crime Stoppers again teamed up with Florida sheriffs and police chiefs to create a new deck of statewide cold case playing cards. The third edition features 52 of Florida's unsolved homicide and missing person cases. The decks will be distributed to inmates in all 67 county jails and to supervised offenders reporting in through probation offices. Each card features a photograph of the victim and factual information about the case.

By distributing the cold case playing cards to offenders, law enforcement will reach thousands of potential sources who may be able to provide critical information about an unsolved case. Printing for the third edition deck was funded through federal grant monies.

DNA Link Leads to Arrest in Murder of Florida Girl. FDLE, the North Port Police Department, and other law enforcement partners announced that Patrick Dewane Murphy, a state prisoner at Avon Park Correctional Institution, was being charged with the murder of six-year old Coralrose Fullwood.



The two-year investigation began when Coralrose disappeared from her bed in the middle of the night. The next morning, her body was found at a construction site only a few blocks from her home. Investigators found foreign DNA on the victim's body, but were unable to name a suspect. As a result of a 2007 state law requiring DNA testing on all convicted felons, Murphy, who had been in state prison since February 2008 for the felonies of grand theft and burglary, was required to provide a DNA sample, which led to a link between Murphy and the victim.



Multi-agency Operation Brings Down Methamphetamine Trafficking Organization. FDLE, along with local, state, and federal law enforcement partners, arrested five individuals for operating a methamphetamine trafficking organization in Madison and Taylor Counties. The three-year investigation began when law enforcement received information about individuals responsible for the distribution of multiple pounds of crystal meth. The individuals were indicted in Tallahassee by a federal grand jury on 18 counts of possession with intent to distribute methamphetamine and conspiracy to possess with intent to distribute methamphetamine.

FDLE and United Kingdom Law Enforcement Join to Fight Organized Crime.

FDLE Commissioner Gerald Bailey and the United Kingdom's Serious Organised Crime Agency (SOCA) Deputy Director David Armond signed a memorandum of understanding affirming cooperation between the two agencies in exchanging relevant investigative and intelligence information to fight organized crime in Florida and the United Kingdom. FDLE and SOCA commit to work together to share information that will help further each agency's mission to detect and dismantle organized criminal activity and to mitigate the harm and threat to public safety posed by organized crime. The partnership between SOCA and FDLE will enhance Florida's ability to investigate and prosecute international organized criminal groups that pose the greatest threats to Florida's citizens and visitors.



CONTRACTS, AGREEMENTS AND PURCHASES
OVER \$100,000 FOR JULY 1ST THROUGH SEPTEMBER 30TH 2008

<u>P.O.#</u>	<u>VENDOR/SERVICE</u>	<u>AMOUNT</u>
DO874131	Orchid BioSciences DBA Orchid GeneScreen Open direct order for forensic biology cases for Investigative and Forensic Program Term period: 7/1/08 thru 6/30/09 Agency ITB	\$178,930
DO1022405	The Bode Technology Group Open direct order for forensic biology cases for Investigative and Forensic Program Term period: 7/1/08 thru 6/30/09 Agency ITB	\$191,000
DO1030713	Infinity Software Development, Inc. Information technology (IT) services systems analysis and programming for sex offender/predator system for Criminal Justice Information Program Term period: 7/1/08 thru 6/30/09 State Term Contract	\$190,988
DO1031240	Technisource, Inc. IT services for FALCON-Integrated Criminal History Systems (ICHS) project for Criminal Justice Information Program Term period: 7/1/08 thru 6/30/09 State Term Contract	\$110,000
*DO1032119	Kyra Info Tech Inc. IT services systems analysis and programming for Simon System for Business Support Program Term period: 7/1/08 thru 6/30/09 State Term Contract	\$170,000
DO1032681	Technisource, Inc. IT services, systems analysis, and programming for Criminal Justice Professional Program Term period: 7/1/08 thru 6/30/09 State Term Contract	\$154,000

*Minority Vendor

CONTRACTS, AGREEMENTS AND PURCHASES
OVER \$100,000 FOR JULY 1ST THROUGH SEPTEMBER 30TH 2008

<u>P.O.#</u>	<u>VENDOR/SERVICE</u>	<u>AMOUNT</u>
DO1033087	Diverse Computing, Inc. IT services and support for the Florida Crime Information Center (FCIC) for Criminal Justice Information Program Term period: 7/1/08 thru 6/30/09 State Term Contract	\$192,840
DO1033242	Brandt Information Services, Inc. IT services for FALCON-ICHS project for Criminal Justice Information Program Term period: 7/1/08 thru 6/30/09 State Term Contract	\$160,000
*DO1033312	Advanced Systems Design, Inc. IT services, systems analysis, and programming for Computerized Criminal History (CCH) System for Criminal Justice Information Program Term period: 7/1/08 thru 6/30/09 State Contract	\$143,000
*DO1033742	Advanced Systems Design, Inc. IT services, system analysis, and programming for Criminal Justice Professional Program Term period: 7/1/08 thru 6/30/09 State Contract	\$150,000
DO1041012	Tampa Electric Company Electricity services for the Tampa Bay Regional Operation Center Term period: 7/1/08 thru 6/30/09 Exempt Reg Utilities	\$325,000
DO1050142	Presidio Corporation Maintenance for Cisco Enterprises routers and network switches Criminal Justice Network (CJNET) for Criminal Justice Information Program Term period: 7/1/08 thru 6/30/09 State Term Contract	\$149,126

*Minority Vendor

CONTRACTS, AGREEMENTS AND PURCHASES
OVER \$100,000 FOR JULY 1ST THROUGH SEPTEMBER 30TH 2008

<u>P.O.#</u>	<u>VENDOR/SERVICE</u>	<u>AMOUNT</u>
DO1080003	Harris Corporation Cellular tracking devices, software and training for Orlando Regional Operations Center No Term Single Source	\$137,000
DO1105307	Brandt Information Services, Inc. IT services project manager for FALCON-ICHS for Criminal Justice Information Program No Term State Contract	\$206,640
7100231	Anders Trust Office space for Live Oak Field Office (10 year lease) Term period: 9/1/08 thru 6/30/18 Providing 4,285 square feet of office space.	\$735,577
C1019A	Agilent Technologies, Inc. Hardware and software maintenance and support services for the mass selective gas chromatographs and related equipment utilized by the crime laboratories at Fort Myers, Pensacola, Tampa Bay, Orlando, Tallahassee and Jacksonville Regional Operations Centers Term period: 7/1/08 thru 6/30/09 Single Source	\$184,995
C95586	Beckman Coulter Maintenance and repair of Biomek 2000 and Biomek 3000 lab equipment located in Fort Myers, Pensacola, Tampa Bay, Orlando, Tallahassee and Jacksonville Regional Operations Center Term period: 8/1/08 thru 7/31/09 Single Source	\$120,686
C1049A	Printrak Maintenance and support of the Automated Fingerprint Identification System (AFIS). Term period: 10/1/08 thru 9/30/09 Sole Source	\$618,659

*Minority Vendor

Florida Department of Law Enforcement

Legislative Budget Request

Fiscal Year 2009-10



Issue	FTE	General Revenue	Trust Fund	TOTAL
Ensure Compliance with Sexual Offender/Predator Legislation			\$300,000	\$300,000
Complete Tampa Facility Building Repairs			\$1,000,000	\$1,000,000
TOTAL REQUEST			\$1,300,000	\$1,300,000

Ensure Compliance with Sexual Offender/Predator Legislation ***\$300,000 Trust Fund***

Provide trust funds to maintain and improve the Sexual Offender/Predator System and address additional workload issues as a result of recent federal and state expanded registration requirements of the Jessica Lunsford Act and Adam Walsh Act (Year One) compliance legislation. The System, a collection of applications, provides information to the public at large. Information in the system is also extracted by a number of state agencies, as well as the National Sex Offender Predator Registry, Appriss Jail Management System, and the state's 67 Sheriffs' Offices. This proposed appropriation will support two contract positions.

Complete Tampa Facility Building Repairs ***\$1,000,000 Trust Fund***

Provide fixed capital outlay funds to complete Phase IV of the building renovations (roof replacement) for the facility housing the Tampa Bay Regional Operations Center, constructed in 1991. Beginning in fiscal year 04-05, the Department has received appropriations for three of the proposed four phases of the building renovation, including replacing the chiller system, remediating mold, and upgrading the HVAC. This proposed appropriation will meet the final needs of the project. The Department has entered into an agreement with the Department of Management Services to move forward with the project and gain formal bids for the required construction.



FLORIDA DEPARTMENT OF LAW ENFORCEMENT

2009 LEGISLATIVE PROPOSALS

Firearm Purchase Program

The Firearm Purchase Program within the Florida Department of Law Enforcement (FDLE) was established in 1991. Primarily, the program facilitates criminal history record checks for firearm purchasers. Section 790.065, F.S., which established the Firearm Purchase Program, is repealed effective October 1, 2009, unless it is reenacted by the Legislature.

Under the provisions of the Brady Act (Federal Gun Control Act, 18 U.S.C. 922), any person purchasing a firearm from a licensed dealer or redeeming a pawned firearm must undergo a criminal history background check through either the Federal Bureau of Investigation (FBI) or the state in which the purchase is made. The act established the National Instant Criminal Background Check System (NICS) within the FBI to check available records to determine if prospective purchasers are disqualified from receiving firearms.

Thirteen states, including Florida, have agencies acting on behalf of the NICS in a full Point Of Contact capacity. They conduct their own background checks for the licensees in their state. Through the Firearm Purchase Program, FDLE serves as Florida's point of contact agency for NICS.

Florida law prohibits transfer of a firearm to a person who:

- Has been convicted of a felony and is prohibited from receipt or possession of a firearm pursuant to Section 790.23, F.S.,
- Has been convicted of a misdemeanor crime of domestic violence,
- Has had an adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless three years have elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred,
- Has been indicted or has had an information filed against her or him for an offense that is a felony under state or federal law (pending disposition information that indicates the potential buyer is not prohibited),
- Has had an injunction for protection against domestic violence entered against him or her under Section 741.30, F.S.,
- Has had an injunction for protection against repeat violence entered against him or her under Section 784.046, F.S., or
- Has been arrested for a dangerous crime as specified under Section 907.041(4)(a), F.S., or the crimes listed in Section 790.065(2)(c), F.S., (pending disposition information that indicates the potential buyer is not prohibited).

Federal law prohibits the transfer of a firearm to any person who has been adjudicated mentally defective or who has been committed to a mental institution. An amendment to Section 790.065, F.S., effective February 1, 2007, required FDLE to establish and maintain an automated database of persons who are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions. The Firearm Purchase Program assists Clerks of Court in making entries to this database.

The Department of Agriculture and Consumer Services is provided database information regarding mental competency in order to determine eligibility for issuance of a concealed weapons license and to determine whether a basis exists for revoking or suspending a previously issued license pursuant to Section 790.06(10), F.S. Additionally, this data is made available to federal agencies and other states to use solely for the purpose of determining the lawfulness of a firearm sale or transfer. To date, over 20,000 records have been entered into the mental competency database and the information has resulted in a total of 47 non approvals of firearm purchases with 43 of those non approvals being issued in Florida.

Maintaining public safety is an important function of the Firearm Purchase Program. The program works closely with many different agencies providing support and assistance. The U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives is provided information regarding firearm purchase non approvals and is also given specific transaction information to assist with audit inspections of licensed dealers. The program notifies local law enforcement when it is determined that a prospective firearm purchaser may have an active arrest warrant. Once the arrest warrant is confirmed, the law enforcement agency is provided with the person's location and home address for possible arrest.

Law enforcement assistance is another service provided by the Firearm Purchase Program. As the designated Point of Contact agency for the FBI and other states' firearm purchase programs, the unit works to update criminal history information whenever missing or unclear criminal history dispositions are discovered. This allows those agencies to determine a customer's eligibility to purchase firearms. Currently, on average, 400 of these information retrievals are being processed each month.

Additionally, the Firearm Purchase Program provides valuable customer service to both licensed firearm dealers and the general public. The program is operational and accessible via telephone 12 hours a day, 7 days a week, 365 days a year.

Proposed Changes: Remove the repeal date for Firearm Purchase Program and provides for a program review by the Legislature prior to any increase in the criminal history check fee. Under current law, this fee is collected from the potential firearm buyer to process the required criminal history check. The fee is set by statute and may not exceed \$8 per transaction.

DNA Database Act

Deoxyribonucleic acid (DNA) contains the coding information for the formation and function of an organism. In humans, over 95% of DNA is the same; coding for common characteristics such as two arms, two legs, etc. The remaining regions of DNA vary from person to person. Some of these regions code for physical characteristics such as eye and hair color. There are also areas of extreme variations between individuals that do not code for physical characteristics. These highly variable regions are of specific interest to the forensic community because they are used to distinguish between individuals.

In 1989, the DNA Investigative Support Database was created by Section 943.325, F.S. The law requires individuals convicted of certain enumerated offenses to submit a DNA sample to the DNA Database. The law requires DNA analysis to be performed on each sample and the results of these analyses must be stored in an "automated personal identification system capable of, but not limited to, classifying, matching, and storing" the analyses. The analysis results allow the comparison of DNA from unresolved cases to the DNA of both known offenders and that from other unresolved or resolved cases in an attempt to identify the perpetrator.

The DNA Database accepts samples from individuals convicted of any felony offense, certain misdemeanor offenses, and offenses found to have been committed to benefit, promote, or further the interests of criminal gangs as defined in Section 874.03, F.S.

Florida is part of the Federal Bureau of Investigation's Combined DNA Index System (CODIS). This system allows state and local law enforcement agencies' crime laboratories to store and compare DNA records from convicted offenders and crime scene evidence with that of other state DNA databases. FDLE provides oral swab DNA collection kits to sheriffs and county jails, the Department of Corrections, the Department of Juvenile Justice, and other criminal justice agencies.

Proposed Changes: Amend Section 943.325, F.S, to clarify responsibilities of FDLE relating to the DNA Database. The bill provides legislative intent with regard to the DNA database, stating the policy of Florida is to assist federal, state, and local criminal justice and law enforcement agencies in the identification and detection of individuals in criminal investigations and the identification and location of missing and unidentified persons.

The bill consolidates definitions found in current law and defines the term DNA sample to mean a buccal or other approved biological specimen capable of undergoing DNA analysis. The bill clarifies FDLE's duties with respect to the database and specifies the department's responsibility to participate in the national DNA database and adopt rules necessary to implement the database requirements.

Additionally, the bill provides that the following types of DNA data may be stored and searched in the statewide DNA database:

- Crime scene samples;
- Samples from offenders required by the Act to provide a biological sample for DNA analysis and databasing;
- Suspect samples lawfully obtained during the course of a criminal investigation;
- Samples from deceased victims or suspects lawfully obtained during the course of a criminal investigation;
- Samples from unidentified human remains;
- Samples from persons reported missing; and
- Samples voluntarily contributed by relatives of missing persons.

DNA collection provisions are expanded to include persons accepted under Article IV of the Interstate Corrections Compact, Part II of Chapter 941, as well as those persons with out of state convictions who are required to register as sexual predators under Section 775.21, F.S., or sexual offenders under Section 943.0435, F.S.

The bill creates a process for the removal of a DNA record in the event a person's conviction or juvenile delinquency adjudication has been reversed and the case dismissed. A person seeking the removal of a DNA record is required to request the removal and provide a certified copy of the court order reversing and dismissing the conviction or adjudication.

The bill creates the following new offenses and penalties:

- Any person who refuses to provide DNA after being notified of the DNA sample requirement is guilty of a second degree misdemeanor.
- Any person who knowingly or intentionally discloses a DNA record or the results of a forensic DNA analysis to a person or agency other than one authorized to have access commits a third degree felony.
- Any person who knowingly or intentionally uses or receives DNA records or the results of a forensic DNA analysis for unauthorized purposes is guilty of a felony of the third degree.
- Any person who knowingly or intentionally tampers or attempts to tamper with any DNA sample, the result of any forensic DNA analysis of a DNA sample collected, or the DNA sample collection container is guilty of a third degree felony.

Provisions relating to the analysis of DNA samples are revised to state FDLE is responsible for specifying the procedures for collection of DNA samples and records and ensuring compliance with national quality assurance standards. The confidentiality of DNA data is currently governed by Section 943.325(7), F.S. This section is amended to clarify that the software and database used to implement this Act are confidential.

The bill contains a severability provision stating that if any one section of the law is found unconstitutional, the remaining provisions of the law will not be affected.

STATE OF FLORIDA
DEPARTMENT OF LAW ENFORCEMENT
Chapter 11-1, FLORIDA ADMINISTRATIVE CODE

AMENDING RULES 11-1.0041, F.A.C.

CONFIRMATION AND DELEGATION OF AUTHORITY

SUMMARY OF PROPOSED RULE

Specifies that the approval of the Governor and Cabinet acting as the head of the Department is required for rulemaking under Chapter 120, F.S.

JUSTIFICATION OF PROPOSED RULE

Updates the language for rulemaking authority based upon recent statutory changes.

FEDERAL COMPARISON STATEMENT

There are no federal requirements dealing with this topic.

SUMMARY OF HEARING

The proposed rules were noticed in the Florida Administrative Weekly on January 9, 2008 for a hearing to be held on February 4, 2009, if requested.

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

Notice of Proposed Rule

DEPARTMENT OF LAW ENFORCEMENT

RULE NO: RULE TITLE

11-1.0041: Confirmation and Delegation of Authority

PURPOSE AND EFFECT: To update the language for rulemaking authority based upon recent statutory changes.

SUMMARY: Specifies that the approval of the Governor and Cabinet acting as the head of the Department is required for rulemaking under Chapter 120, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 943.03(4), F.S.

LAW IMPLEMENTED: 20.05(1)(b), 20.201, 112.061, 120.63(1), 216.345, Chapter 943.

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

DATE AND TIME: Wednesday, February 4, 2009 at 10:00 a.m.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Fern Rosenwasser, Florida Department of Law Enforcement, Office of General Counsel, 2331 Phillips Road, Tallahassee, Florida 32308.

THE FULL TEXT OF THE PROPOSED RULE IS:

NAME OF PERSON ORIGINATING PROPOSED RULE: Fern Rosenwasser, Assistant General Counsel

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2008.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 17, 2008.

11-1.0041 Confirmation and Delegation of Authority.

(1) In accordance with paragraph 20.05(1)(b), F.S., the Executive Director and other officials of the Department of Law Enforcement are hereby authorized to perform or exercise the following statutory powers and duties of the Agency, Department, or Department Head:

(a) The Executive Director or, his designee shall:

1. through 11. No change.

12. Act on behalf of the agency in carrying out the provisions of Chapter 120, F.S., provided, however, the Governor and Cabinet shall approve all Department administrative rules and reserve the prerogative to act as hearing officer in Section 120.57, proceedings involving great public interest or other public agencies. Examples include the following:

a. To initiate rulemaking by publishing a notice of intended action. ~~However, before a notice of intended action is published, the Department must submit the proposed notice including the proposed text to the Governor and each member of the Cabinet. Upon the request of the Governor or any member of the Cabinet, the Department shall submit the proposed rules for action by the Governor and Cabinet at the next available Cabinet meeting. If, after being given 10 working days to review the Department's proposed notice of intended action and rule text, neither the Governor nor any member of the Cabinet notifies the Department of his or her objection to such publication, the Department has authority to proceed to initiate rulemaking pursuant to Section 120.54(3)(a)1., F.S.~~ The power to determine whether proposed rules should be approved for the filing of a notice of intended action and final adoption is hereby reserved to the Governor and Cabinet acting as the head of the Department.

b. through h. No change.

(b) through (f) No change.

Specific Authority 943.03(4) FS. Law Implemented 20.05(1)(b), 20.201, 112.061, 120.63(1), 216.345, Chapter 943 FS. History—New 1-31-80, Amended 6-29-80, 7-5-81, Formerly 11-1.041, Amended 7-6-99, 8-22-00, _____.

**STATE OF FLORIDA
DEPARTMENT OF LAW ENFORCEMENT
CHAPTER 11B-27, FLORIDA ADMINISTRATIVE CODE
AMENDING RULES 11B-27.0011 and 11B-27.00212**

CERTIFICATION AND EMPLOYMENT OR APPOINTMENT

SUMMARY OF PROPOSED RULE

The proposed rule revisions implement the following changes: Adds rule language to provide for “recantation of a false statement” that occurs during the performance of work duties or in the course of an administrative investigation. Reduces the mandatory retraining cycle for use-of-force training. Adds elder abuse training for basic recruit training programs and mandatory retraining as required by the 2008 statutory revision to Section 943.17296, F.S.

JUSTIFICATION OF PROPOSED RULE

11B-27.0011(5): Revised to add rule language for recantation, as a defense to any violation involving perjury or false statement in a court proceeding, if the perjury or false statement occurred during the performance of work duties or in the course of an administrative investigation, and if the officer making the statement conceded such statement to be false prior to the employing agency’s final disciplinary determination. The first sentence of the proposed rule language was written for court proceedings only and is a restatement of Section 837.07, F.S. The second sentence of the proposed rule language includes only “moral character violations” during the course of an internal affairs investigation and does not include misdemeanor convictions of perjury.

11B-27.00212(13): Changed the use-of-force mandatory retraining requirement from every two-years to once during an officer’s 4-year mandatory retraining cycle. Revised the Mandatory Retraining Report form CJSTC-74 to reflect the new use-of-force mandatory retraining cycle.

11B-27.00212(15): Implemented the new statutory requirement for elder abuse training, pursuant to Section 943.17296, F.S., effective July 1, 2008. This training requires the Commission’s basic recruit training programs and mandatory retraining requirements to include identification of and appropriate responses for persons suffering from dementia, and identifying and investigating elder abuse.

FEDERAL COMPARISON STATEMENT

There are no federal requirements dealing with this topic.

SUMMARY OF HEARING

The proposed rules were noticed in the Florida Administrative Weekly on January 9, 2009, for a hearing to be held February 4, 2009, if requested.

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

NOTICE OF PROPOSED RULE

DEPARTMENT: Florida Department of Law Enforcement

DIVISION: 11B-27 Certification and Employment or Appointment

RULE NO.:	RULE TITLE:
11B-27.0011	Moral Character
11B-27.00212	Maintenance of Officer Certification

PURPOSE AND EFFECT:

11B-27.0011(5): Revised to add rule language for recantation, as a defense to any violation involving perjury or false statement in a court proceeding, if the perjury or false statement occurred during the performance of work duties or in the course of an administrative investigation, and if the officer making the statement conceded such statement to be false prior to the employing agency's final disciplinary determination. The first sentence of the proposed rule language was written for court proceedings only and is a restatement of Section 837.07, F.S. The second sentence of the proposed rule language includes only "moral character violations" during the course of an internal affairs investigation and does not include misdemeanor convictions of perjury.

11B-27.00212(13): Changed the use-of-force mandatory retraining requirement from every two-years to once during an officer's 4-year mandatory retraining cycle. Revised the Mandatory Retraining Report form CJSTC-74 to reflect the new use-of-force mandatory retraining cycle.

11B-27.00212(15): Implemented the new statutory requirement for elder abuse training, pursuant to Section 943.17296, F.S., effective July 1, 2008. This training requires the Commission's basic recruit training programs and mandatory retraining requirements to include identification of and appropriate responses for persons suffering from dementia, and identifying and investigating elder abuse.

SUMMARY:

The proposed rule revisions implement the following changes: Adds rule language to provide for "recantation of a false statement" that occurs during the performance of work duties or in the course of an administrative investigation. Reduces the mandatory retraining cycle for use-of-force training. Adds elder abuse training for basic recruit training programs and mandatory retraining as required by the 2008 statutory revision to Section 943.17296, F.S.

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

SPECIFIC AUTHORITY: 943.03(4), 943.12(1) FS.

LAW IMPLEMENTED: 943.12, 943.13, 943.135, 943.1395, 943.1701, 943.1715, 943.1716, 943.253 FS.

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

DATE AND TIME: Wednesday, February 4, 2009.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Donna Hunt, (850)410-8615. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donna Hunt (850-410-8615), Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308

NAME OF PERSON ORIGINATING PROPOSED RULE: Bureau Chief Vickie Gardner, 850-410-8660.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Bureau Chief Vickie Gardner (850)410-8660.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2008.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 17, 2008.

THE FULL TEXT OF THE PROPOSED RULE IS:

11B-27.0011 Moral Character.

(1) – (4) No change.

(a) – (b) No change.

1. – 3. No change.

(c) No change.

1. – 3. No change.

a. – b. No change.

4. No change.

a. – c. No change.

5. – 9. No change.

a. – 1. No change.

10. – 12. No change.

(d) No change.

(5) A certified officer's failure to maintain good moral character as defined in subsection (4) of this rule section by committing a violation involving perjury or false statement in a court proceeding, shall not include a statement which was recanted. If the violation involving perjury or false statement is alleged to have occurred in the performance of regularly required work duties or the course of an administrative or disciplinary investigation, a certified officer's failure to maintain good moral character as defined in subsection (4) of this rule section shall not include a statement in which the officer making the statement conceded such statement to be false prior to the employing agency's final disciplinary determination as provided for in Section 112.532(4)(b), F.S. Recantation, pursuant to Section 837.07, F.S., shall be a defense to any violation involving perjury or false statement, pursuant to subsection (4) of this rule section.

(6) – (7) No change.

(a) – (c) No change.

(8) No change.

Specific 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._____.

11B-27.00212 Maintenance of Officer Certification.

(1) – (3) No change.

(4) Continuing education or training pursuant to Section 943.135, F.S. Upon an officer's completion of the required continuing education or training the employing agency shall submit or electronically transmit to Commission staff through the Commission's ATMS, and maintain in file a completed Mandatory Retraining Report, form CJSTC-74, revised November 8, 2007, hereby incorporated by reference.

(5) No change.

(a) – (d) No change.

(6) – (12) No change.

(a) No change.

1. – 3. No change.

(b) No change.

1. – 3. No change.

(13) Use-of-Force training. An officer, ~~whose mandatory retraining cycle begins on July 1, 2005 or thereafter,~~ shall, as a part of the officer's 40-hour continuing education or training every four years, be required to complete the following Use-of-Force training.

(a) Use-of-Force training shall include the following topics of instruction:

1. Scenario-based Firearms Training.
2. Physiological Response Dynamics Training.
3. Less-lethal force options available within the agency.
4. Agency policies on Use-of-Force training.
5. Legal aspects regarding Use-of-Force training.

(b) A law enforcement and correctional officer shall complete, ~~once every two years,~~ Use-of-Force training pursuant to subparagraphs (13)(a)1. – 5., of this rule section.

(c) A correctional probation officer shall complete, ~~once every two years,~~ Use-of-Force training pursuant to subparagraphs (13)(a)2. – 5., of this rule section.

(d) ~~An officer, who fails to comply with the Use of Force training requirements within the first two years of his or her four year mandatory retraining cycle, shall satisfy these training requirements prior to the end of the four year cycle.~~

(d)(e) An officer's employing agency shall report the completion of Use-of-Force training to Commission staff, pursuant to (4) of this rule section. ~~prior to the close of the officer's four year mandatory retraining cycle, by electronically transmitting a completed Mandatory Retraining Report form CJSTC 74, through the Commission's ATMS.~~

(e)(f) An officer is permitted to substitute instruction of Use-of-Force training to satisfy the continuing education or training requirements for the officer's four-year mandatory retraining cycle.

~~(g) An officer, who fails to comply with the Use of Force training requirements, pursuant to paragraphs (13)(a) (f) of this rule section, shall become an inactive Florida officer. The officer's certification shall become reactivated when the officer's employing agency electronically transmits a completed form CJSTC 74, to Commission staff, verifying the officer has met the continuing education or training requirements for the officer's four year mandatory retraining cycle.~~

~~(h) An officer, who has a lapse in employment of less than four years, shall complete the Use of Force training requirements pursuant to paragraph (13)(b) or (c) of this rule section.~~

(14) No change.

(a) No change

(b) Reporting of the compliance with this standard shall be June 30, 2008, and every two years thereafter. Documentation supporting the demonstration of proficiency skills shall be reported on the Mandatory Firearms Training Report, form CJSTC-86, revised November 8, 2007, hereby incorporated by reference, and maintained in the officer's employment file. The employing agency shall submit or electronically transmit to Commission staff through the Commission's ATMS, the date of completion. ~~a completed form CJSTC 86.~~

(c) - (d) No change.

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

(a) Certified law enforcement officers shall complete Elder Abuse Training on or before June 30, 2011 pursuant to Section 943.17296, F.S.

(b) The training shall include instruction on the identification of and appropriate responses for persons suffering from dementia and on identifying and investigating elder abuse and neglect.

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

1. CMS Application-Based Law Enforcement Basic Recruit Training Program (BRTP) number 224.

2. Florida CMS Law Enforcement BRTP number 1177.

3. Traditional Correctional Cross-Over to CMS Application-Based Law Enforcement BRTP number 1143.

4. Correctional Officer Cross-Over Training to Florida CMS Law Enforcement BRTP number 1178.

5. Traditional Correctional Probation Cross-Over to CMS Application-Based Law Enforcement BRTP number 1157.

6. Correctional Probation Officer Cross-Over Training to Florida CMS Law Enforcement BRTP number 1179.

7. CMS Law Enforcement Auxiliary Officer BRTP number 1180.

(d) Law enforcement officers who have successfully completed Crimes Against the Elderly advanced training course number 100 will have satisfied this training requirement.

(e) Elder Abuse Training for Law Enforcement course by the Department of Elder Affairs.

(f) Specialized Training Program Course; Elder Abuse Investigations course number 1185.

(g) An officer who fails to comply with the elder abuse and neglect training requirements pursuant to Section 943.17296, F.S., shall become an inactive Florida officer. The officer's certification shall become reactivated when the officer's employing agency provides Commission staff with verification that the officer has met the continuing education or training requirement.

(h) Upon an officer's completion of the required training the employing agency shall submit or electronically transmit to Commission staff through the Commission's ATMS the date of completion.

Specific 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, _____. Editorial Note: See 11B-27.0023, F.A.C.

STATE OF FLORIDA
DEPARTMENT OF LAW ENFORCEMENT
Chapter 11C-6, FLORIDA ADMINISTRATIVE CODE
AMENDING RULES 11C-6.005, F.A.C.

ACCESS TO CRIMINAL JUSTICE INFORMATION FOR RESEARCH OR STATISTICAL
PURPOSES

SUMMARY OF PROPOSED RULE

The amended rule language implements a processing fee for requests for criminal justice information for research or statistical services.

JUSTIFICATION OF PROPOSED RULE

To implement a processing fee for research requests based upon statutory authority.

FEDERAL COMPARISON STATEMENT

There are no federal requirements dealing with this topic.

SUMMARY OF HEARING

The proposed rules were noticed in the Florida Administrative Weekly on January 9, 2009, for a hearing to be held on February 4, 2009, if requested.

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-6.005: Access to Criminal Justice Information for Research or Statistical Purposes

PURPOSE AND EFFECT: To establish a processing fee for information provided for research or statistical purposes requests.

SUMMARY: The amended rule language implements a processing fee for requests for criminal justice information for research or statistical services.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 943.03(4), 943.053(1), 943.057, F.S.

LAW IMPLEMENTED: 119.07, 943.0525, 943.053, 943.057, F.S.

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

DATE AND TIME: Wednesday, February 4, 2009 at 10:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Sue Burton at 850-410-7144. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Burton, Florida Department of Law Enforcement, Criminal Justice Information Services, 2331 Phillips Road, Tallahassee, FL 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

NAME OF PERSON ORIGINATING PROPOSED RULE: Sue Burton

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2008.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 17, 2008.

11C-6.005 Access to Criminal Justice Information for Research or Statistical Purposes.

(1) Each request of the Department of Law Enforcement for criminal justice information for research or statistical purposes shall be processed through the Director's Office of the Division of Criminal Justice Information Systems.

(2) through (8) No change.

(9) A processing fee shall be charged unless the Executive director of the department determines that the requested information would be in the interest of law enforcement or criminal justice.

(a) The processing fee shall be computed for requests that require more than 30 minutes of personnel time to complete all tasks. The processing fee will be computed to the nearest quarter of an hour when exceeding 30 minutes based on the cost of wages and benefits of the personnel who perform the request. The Department will determine the personnel who will provide assistance in fulfilling the request.

(b) The requestor shall be required to pay any estimated processing fee, as determined by the Department, prior to personnel rendering such services. The Department will refund to the requestor any monies deposited with the Department in excess of the actual costs incurred to fulfill a request.

Specific Authority 943.03(4), 943.053(1), 943.057 FS. Law Implemented 119.07, 943.0525, 943.053, 943.057 FS. History—New 11-12-81, Formerly 11C-6.05, Amended 7-7-99, _____.

STATE OF FLORIDA
DEPARTMENT OF LAW ENFORCEMENT
Chapter 11C-7, FLORIDA ADMINISTRATIVE CODE
AMENDING RULE 11C-7.008, F.A.C.

ADMINISTRATIVE EXPUNCTION PROCEDURES

SUMMARY OF PROPOSED RULE

Requests for administrative expunction from the Florida criminal history file of arrests made in error or contrary to law no longer require an affidavit from the head of the arresting agency. If the person was arrested in error based on a warrant, capias, or pick-up order, the request for an administrative expunge may be made either by the head of the arresting agency or by the sheriff of the warranting county or by the state attorney of the judicial circuit where the warrant, capias or pick-up order was issued.

JUSTIFICATION OF PROPOSED RULE

Implements updated statutory requirements for the administrative expunction of Florida criminal history arrest

records that are made contrary to law or by mistake.

FEDERAL COMPARISON STATEMENT

There are no federal requirements dealing with this topic.

SUMMARY OF HEARING

The proposed rules were noticed in the Florida Administrative Weekly on January 9, 2009, for a hearing to be held on February 4, 2009, if requested.

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-7.008: Administrative Expunction Procedures

PURPOSE AND EFFECT: Implements updated statutory requirements for the administrative expunction of Florida criminal history arrest records that are made contrary to law or by mistake.

SUMMARY: Requests for administrative expunction from the Florida criminal history file of arrests made in error or contrary to law no longer require an affidavit from the head of the arresting agency. If the person was arrested in error based on a warrant, capias, or pick-up order, the request for an administrative expunge may be made either by the head of the arresting agency or by the sheriff of the warranting county or by the state attorney of the judicial circuit where the warrant, capias or pick-up order was issued.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 943.03, 943.0581, F.S.

LAW IMPLEMENTED: 943.0581, F.S.

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

DATE AND TIME: Wednesday, February 4, 2009 at 10:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Tanya Goetz, Florida Department of Law Enforcement, Criminal Justice Information Services, 2331 Phillips Road, Tallahassee, Florida 32308 If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jean Itzin, Florida Department of Law Enforcement, Criminal Justice Information Services, 2331 Phillips Road, Tallahassee, Florida 32308, 850-410-7980.

THE FULL TEXT OF THE PROPOSED RULE IS:

NAME OF PERSON ORIGINATING PROPOSED RULE: Jean Itzin

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2008.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED

11C-7.008 Administrative Expunction Procedures.

(1) Non-judicial records of arrest made contrary to law or by mistake will be administratively expunged by the Department, upon application by the arresting law enforcement agency, or by the person arrested or, in the case of a minor child, the parent or legal guardian of the minor person arrested. An application submitted by the person arrested, or the parent or legal guardian of the minor person arrested, shall be supported by the endorsement of the head or chief law enforcement officer of the arresting agency or of the state attorney of the judicial circuit in which the arrest occurred.

(2) No change.

(3) An application for administrative expunction must be in writing. If submitted by the arresting law enforcement agency, the application shall be on agency letterhead, and signed by the head or chief law enforcement officer of the arresting agency, ~~chief law enforcement officer~~ or his or her authorized designee. An application submitted by the person arrested or the parent or legal guardian of the minor person arrested, must be in writing and must identify the relationship of the person signing the application to the person arrested.

(4) A supporting endorsement of an application submitted by the person arrested or the parent or legal guardian of the minor person arrested, must be in writing, on agency letterhead, and signed by the head or chief law enforcement officer of the arresting agency or his or her authorized designee or by the state attorney of the judicial circuit in which the arrest occurred or his or her authorized designee.

(5) An application for administrative expunction submitted by the arresting law enforcement agency, or the supporting endorsement in the case of an application submitted by the person arrested, or the parent or legal guardian of the minor person arrested, shall identify the arrest to be expunged by providing the following information. Written documents related to administrative expunctions shall make specific reference to identifying information, including:

- (a) Name and Aliases;
- (b) Sex and Race ~~Alias/Maiden Name(s)~~;
- (c) Date of Birth ~~Sex~~;
- (d) Social Security Number (if available, used for identification – not mandatory) ~~Race~~;
- (e) Date and Time of Arrest ~~Birth~~;
- (f) Original Charge(s) ~~Social Security Number (Not required)~~;
- (g) FDLE Number and FBI Number (if applicable and known) ~~Date of Arrest~~;
- (h) OBTS Arrest Number and Original Charges;
- (i) Reason for Administrative Expunction ~~FDLE Number and FBI Number (If Applicable and Known)~~;
- (j) ~~Reason For Administrative Expunction.~~

(6) If the person was arrested on a warrant, capias, or pick-up order, the request for an administrative expunction, or the supporting endorsement of an application submitted by the person arrested or the parent or legal guardian of the minor person arrested, may be made by the sheriff of the county where the warrant, capias, or pick-up order was issued or his or her designee, or by the state attorney of the judicial circuit where the warrant, capias, or pick-up order was issued or his or her designee.

~~Any application for administrative expunction, whether submitted by the arresting law enforcement agency or by the person arrested or the parent or legal guardian of the minor person arrested, must be supported by an affidavit executed by the chief of the arresting law enforcement agency, sheriff, or department head of the arresting state law enforcement agency in which the affiant verifies that he or she has reviewed the record of the arrest and that the arrest was contrary to law or was a mistake. The affidavit shall include the date and time of the arrest, the name of the arresting officer, the name of the person arrested, and the crime or crimes charged and shall be submitted directly to the Department by the arresting law enforcement agency. An application which does not include this affidavit, in the form prescribed, will be rejected by the Department and a written explanation of the reason for rejection will be provided to the applicant by the Department. A copy of the rejection notice and explanation will also be provided to the arresting agency if that agency has made a submission in support of the application.~~

(7) When an administrative expunge application meets the statutory requirements, the Department will notify the arresting agency, which is then responsible for expunging its records of the arrest, and for notifying any other agency to which it provided the criminal history record information that is the subject of the administrative expunction

(8) ~~(7)~~ No application, or endorsement, ~~or affidavit~~ made under this section shall be admissible as evidence in any judicial or administrative proceeding or otherwise be construed in any way as an admission of liability in connection with an arrest.

(9) ~~(8)~~ The procedures by which an individual may secure an administrative correction of the criminal history record pertaining to the individual are set out in Chapter 11C-8, F.A.C. Non-criminal arrest records which are mistakenly or improperly forwarded to the Department for processing and retention as criminal history records will be removed as an administrative correction ~~expunge~~ by the Department.

Specific Authority 943.03, 943.0581 FS. Law Implemented 943.0581 FS. History–New 8-5-92, Amended 3-21-07, Amended

STATE OF FLORIDA
DEPARTMENT OF LAW ENFORCEMENT
Chapter 11C-10, FLORIDA ADMINISTRATIVE CODE
AMENDING RULES 11C-10.01 & 11C-10.02, F.A.C.

MISSING ENDANGERED PERSONS CLEARINGHOUSE

SUMMARY OF PROPOSED RULE

The amended rule language implements the procedures for the collection and submission of DNA for persons missing over 90 days.

JUSTIFICATION OF PROPOSED RULE

To implement procedures regarding the collection and submission of DNA specimens for persons missing over 90 days, based upon recent statutory changes.

FEDERAL COMPARISON STATEMENT

There are no federal requirements dealing with this topic.

SUMMARY OF HEARING

The proposed rules were noticed in the Florida Administrative Weekly on January 9, 2009 for a hearing to be held on February 4, 2009, if requested.

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-10.01: Definitions

11C-10.02: Procedures

PURPOSE AND EFFECT: To implement procedures regarding the collection and submission of DNA specimens for persons missing over 90 days, based upon recent statutory changes.

SUMMARY: The amended rule language implements the procedures for the collection and submission of DNA for persons missing over 90 days.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 937.021(7), 937.022, 943.03(4), F.S.

LAW IMPLEMENTED: 937.021(6), 937.022, F.S.

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

DATE AND TIME: Wednesday, February 4, 2009 at 10:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Dinah Johnson at 850-410-8583. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dinah Johnson, Florida Department of Law Enforcement, Missing Endangered Persons Information Clearinghouse, 2331 Phillips Road, Tallahassee, Florida 32308.

THE FULL TEXT OF THE PROPOSED RULE IS:

NAME OF PERSON ORIGINATING PROPOSED RULE: Dinah Johnson

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2008.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 17, 2008.

11C-10.01 Definitions

- (1) “Approved biological specimen” shall mean either a direct reference sample or a family reference sample.
- (2) “Buccal swab” shall mean epithelial cells collected from the cheek in the oral cavity using a sterile cotton-tipped swab.
- (3) “Direct reference sample” shall mean any known DNA standard or biological specimen, which is known to originate from the missing child or adult. Examples include a known medical blood sample, razor, or toothbrush.
- (4) “Family reference sample” shall mean a DNA specimen that is obtained from a biologically related family member of a missing child or adult.
- (5) “Family reference sample collection kit” shall mean an approved DNA collection kit that provides a means of collecting DNA reference samples from biologically related family members of a missing child or adult. These DNA collection kits are assembled by the University of North Texas Center for Human Identification, which includes a buccal swab collection kit or the FBI National Missing Person DNA Database, which utilizes a FBI blood cell collection kit. Each kit contains DNA collection instructions, consent forms for the donor, missing person information forms, and any items provided to collect DNA samples.
- (6) The terms missing child or adult shall have the same meanings as provided for in s. 937.0201, F.S. Specific Authority 943.03(4), 937.021(7) FS. Law Implemented 937.021, 937.022 FS. History–New _____.

11C-10.02 Procedures

(1) If a missing child or adult is not located within 90 days after the missing child or missing adult report is filed, the law enforcement agency that accepted the report shall attempt to obtain a biological specimen for DNA analysis from the missing child or missing adult or from biologically related family members. The law enforcement agency can provide a biological specimen for DNA analysis prior to the expiration of the 90-day period.

(2) Submission of a direct reference sample of the missing child or adult.

(a) The law enforcement agency shall submit a direct reference sample, which can include a known medical blood sample, toothbrush, or razor, to the University of North Texas (UNT) Center for Human Identification Center at 3500 Camp Bowie Blvd., Fort Worth, Texas 76054, phone number 1-800-763-3147, or the Federal Bureau of Investigation (FBI) National Missing Person DNA Database, FBI Laboratory, Evidence Control Unit, Samples for National Missing Person DNA Database, 2501 Investigation Parkway, Quantico, VA 22135, phone 703-632-7582. Direct reference sample submission instructions are also available on the CJNet on the Missing Endangered Persons Information Clearinghouse Website, under the DNA link, URL address: <http://mcic.flcjin.net/MCICsearch>, or contact the Florida Department of Law Enforcement Missing Endangered Persons Information Clearinghouse, P.O. Box 1489, Tallahassee, Florida 32302-1489, phone number 1-888-356-4774.

(b) A direct reference sample shall be accompanied by family reference DNA samples. If no family reference DNA samples exist, the law enforcement agency shall include a written notice at the time of the direct reference sample submission.

(c) The law enforcement agency shall follow the instructions provided by the UNT or the FBI for the collection, labeling, storage, handling and submission of a direct reference sample.

(d) If no direct reference sample exists, the law enforcement agency shall attempt to obtain family reference DNA samples for submission.

(3) Submission of family reference samples. The law enforcement agency has the option of collecting buccal swabs or blood samples:

(a) Family reference sample kits for buccal swab collection are available at no cost from the UNT.

(b) Family reference sample kits for blood sample collection are available at no cost from the FBI. The withdrawal of blood for purposes of this section shall be performed in a medically approved manner using the FBI’s family reference sample collection kits, and only by or under the supervision of a physician, registered nurse, licensed practical nurse, and any duly licensed medical personnel.

(c) The law enforcement agency shall attempt to obtain one family reference DNA sample from at least two different biologically related family members of the missing child or adult.

(d) The priority of sample submission is as follows: biological mother, biological father, biological siblings, biological children, maternal relatives, and paternal relatives.

(e) The biologically related family member of the missing child or adult must be positively identified by the law enforcement agency prior to submission of the DNA sample. An example of proof of identification would be a state or federal government issued identification card containing a photograph of the donor.

(f) The law enforcement agency shall follow the instructions provided by the UNT or the FBI for the collection, labeling, storage, handling and submission of family reference samples.

(4) Law enforcement state (FCIC) and national (NCIC) database entry requirements:

(a) Upon receipt of the a lab case identification number from UNT or FBI, the law enforcement agency shall modify the DNA fields in the missing person entry of the Florida Crime Information Center (FCIC) and National Crime Information Center (NCIC) databases to indicate that DNA specimens were collected and submitted. The DNA

location field (DLO) of the missing person entry shall include information regarding the name of the laboratory, the lab case identification number, contact person, and the type of specimen submitted.

(b) If a match occurs between the DNA profiles for a missing child or adult and an unidentified person, then the law enforcement agency will be notified by the FBI or the UNT.

(c) Once the missing child or adult is located or identified, the law enforcement agency shall provide the UNT or the FBI with written notification on law enforcement agency letterhead.

Specific Authority 943.03(4), 937.021(7) FS. Law Implemented 937.021, 937.022 FS. History–New

**STATE OF FLORIDA
DEPARTMENT OF LAW ENFORCEMENT
CHAPTER 11N-1, FLORIDA ADMINISTRATIVE CODE**

AMENDING RULES 11N-1.002, 11N-1.0022, 11N-1.0023, 11N-1.003, 11N-1.0031, 11N-1.0032, 11N-1.0051, 11N-1.0052, AND 11N-1.006, F.A.C.

OFFICE OF THE INSPECTOR GENERAL

SUMMARY OF PROPOSED RULE

Rule 11N, F.A.C., complies with the mandate of the Florida Violent Crime Act of 1993 regarding the Florida Violent Crime and Drug Control Council (VCDCC). The rule requires implementation of statutorily mandated procedures for Criminal Gang Investigative Funding from the Violent Crime and Drug Control Strategy Implementation Account; establishes the Drug Control Strategy and Criminal Gang (DCSCG) Committee from the Council membership to authorize funding for Drug Control and Criminal Gang Investigative Funding; clarifies the duties of the DCSCG Committee and the Council regarding the funding process; establishes criteria for who may be selected to serve as the Chair of the Council; defines what constitutes a “law enforcement agency” eligible to receive Council funding; simplifies limits upon Drug Control Funding regarding payment of overtime (OT) with Council funds; clarifies funding application submissions by requesting agencies; revises the Drug Bi-Annual Report Form to be used for the newly implemented Criminal Gang Funding category; enables the Council to use more stringent actions toward agencies that fail to submit the required bi-annual updates to FDLE/VCDCC personnel in a timely manner; and allows “other entities” besides law enforcement agencies, to contribute to the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account for use by the Council in its funding efforts.

JUSTIFICATION OF PROPOSED RULE

Proposed revisions to Chapter 11N-1, F.A.C., are necessary to update program procedures and implement statutorily mandated criteria for Criminal Gang Investigative Funding.

FEDERAL COMPARISON STATEMENT

There are no federal requirements dealing with this topic.

SUMMARY OF HEARING

The proposed rules were noticed in the Florida Administrative Weekly on January 9, 2009, for a hearing to be held on February 4, 2009, if requested.

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

Notice of Proposed Rule

DEPARTMENT OF LAW ENFORCEMENT

Office of Inspector General

RULE NO: RULE TITLE

11N-1.002: Criteria

11N-1.0022: Matching Drug Control Investigative Funding

11N-1.0023: Criminal Gang Investigative Funding

11N-1.003: Limitations on Violent Crime Investigative Reimbursement Funding

11N-1.0031: Limitations on Matching Drug Control Investigative Funding

11N-1.0032: Limitations on Criminal Gang Investigative Funding

11N-1.0051: Procedures for Funding Requests for Drug Control Investigative Funding

11N-1.0052: Procedures for Funding Requests for Criminal Gang Investigative Funding

11N-1.006: Contributions

PURPOSE AND EFFECT: Implements updated statutory criteria for funding and clarifies existing funding language.

SUMMARY: Expands the duties of the Violent Crime and Drug Control Council to provide proactive criminal gang investigative funding and to clarify funding criteria for agencies receiving funding from the Violent Crime and Drug Control Strategy Implementation Account.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 943.03(4), 943.042, F.S.

LAW IMPLEMENTED: 943.031, 943.042, F.S.

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

DATE AND TIME: Wednesday, February 4, 2009 at 10:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Joyce Gainous-Harris at 850-410-7096. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joyce Gainous-Harris, Florida Department of Law Enforcement, Investigations and Forensic Science Program, 2331 Phillips Road, Tallahassee, FL 32308.

THE FULL TEXT OF THE PROPOSED RULE IS:

NAME OF PERSON ORIGINATING PROPOSED RULE: Joyce Gainous-Harris

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2008.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 17, 2008.

11N-1.002 Criteria.

The Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account shall be used:

(1) To provide emergency supplemental funds to:

(a) through (c) No change.

(2) To provide matching funding, as provided for in Rules 11N-1.0022 and 11N-1.0023, F.A.C., to multi-agency or statewide drug control, criminal gang, or illicit money laundering investigative or task force efforts that:

(a) Significantly contribute to achieving the state's goal of reducing drug-related crime as articulated by the Office of Drug Control;

(b) Represent significant criminal gang investigative efforts;

(c) ~~(b)~~ Represent a significant illicit money laundering investigative effort; or

(d) ~~(e)~~ Otherwise significantly support statewide strategies developed by the Statewide Drug Policy Advisory Council established under Section 397.333, F.S.

(3) No change.

(4) Funding approval or authorization shall be as follows:

(a) The Violent Crime and Drug Control Council, as described in 943.031, F.S., shall approve funding for Violent Crime Investigative Reimbursement and Emergency Violent Crime Funding.

(b) The Drug Control Strategy and Criminal Gang (DCSCG) Committee, as described in 943.031, F.S., shall authorize funding for Drug Control and Criminal Gang Investigative Funding.

(c) The Victim Witness Protection Review Committee, as described in 943.031, F.S., shall approve funding for the Victim Witness Protection Program.

(5) The Chair of the Council shall be selected from Council members eligible for membership on the Victim and Witness Protection Review Committee as defined at Section 943.031(8) F.S., and who shall also serve as Chair of the Victim and Witness Protection Review Committee and the Drug Control Strategy and Criminal Gang Committee as defined at Section 943.031(6), F.S.

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History--New 3-10-94, Amended 10-10-95, 10-25-01, 11-5-02, 3-21-07, 6-9-08, _____.

11N-1.0022 Drug Control Investigative Funding.

(1) In determining whether requests for drug control funding relate to multi-agency or statewide drug control or illicit money laundering investigative or task force efforts that:

(a) through (b) No change.

(c) Otherwise significantly support statewide strategies developed by the Statewide Drug Policy Advisory Council, the following criteria shall be considered by the DCSCG Committee:

1. through 2. No change.

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History--New 10-25-01, Amended 11-5-02, 12-3-03, 3-27-06, _____.

11N-1.0023 Criminal Gang Investigative Funding.

(1) In determining whether requests for criminal gang investigative funding relate to criminal proactive investigative efforts that:

(a) Significantly contribute to achieving the state's goal of reducing criminal gang activity.

(b) Represent a significant criminal gang investigative effort; or

(c) Otherwise significantly support statewide strategies developed by the Statewide Drug Policy Advisory Council, the following criteria shall be considered by the DCSCG Committee:

I. Mandatory Factors:

a. The investigative effort focuses on a criminal gang shown to have, or reasonably believed of having, activities such that involvement of multiple investigative agencies is necessary; and

b. At least two agencies of the State of Florida, counties, cities, or combination thereof within the State of Florida are involved; and

c. The investigative effort demonstrates a commitment of participating agencies to cooperate with one another in a collaborative investigative effort; and

d. The criminal gang to be investigated has, or is reasonably believed to have, a structure that directs, finances, and engages in criminal gang activity and related crimes (such as drug trafficking, money-laundering, organized crime, and crimes of violence) that have the same or similar intents, results, accomplices, victims, or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents; and

e. The proposed investigative effort demonstrates a specific strategy:

(I) To achieve successful prosecutions of those within the criminal gang who hold a position of organizer, supervisor, or any other position of authority or who obtains substantial assets or resources from the illegal acts of the criminal gang being investigated as they may become identified; and

(II) To utilize a multi-agency and cross-discipline approach to disrupt and dismantle the criminal gang operation via seizures of assets, and organized crime investigations and prosecutions, or similar efforts.

f. The proposed investigative plan demonstrates a level of participating agency resource commitment that suggests a substantial likelihood of investigative and prosecution success; and

g. The proposed effort includes a commitment from one or more State Attorneys in Florida, U.S. Attorneys in Florida, or Florida's Statewide Prosecutor having jurisdiction over the activities of the criminal gang under investigation to assist and support the investigation, through efforts such as issuance of subpoenas, use of grand juries, obtaining search warrants, securing court orders regarding the interception of communications, coordinating multiple prosecutions, assisting in securing plea agreements with those in the criminal gang organization in return for cooperation and testimony, and certifying witnesses for witness protection under applicable law and a commitment to cooperate with other prosecuting entities having jurisdiction over activities of the criminal gang to maximize the success of the investigative effort.

h. The proposed investigative effort shall ensure that all known targets of a criminal gang investigation proposed to be funded by the Council funds shall be entered into the "InSite" database maintained by the Florida Department of Law Enforcement. The funding request shall indicate that such entry has been accomplished. All future identified targets shall be entered into "InSite." All criminal gang seizures related to criminal gang Council funded investigations shall be entered into "InSite." Upon failure to make such entry, the Council is authorized to suspend funding not yet provided and to direct refund of all unexpended funds previously provided by the Council.

2. Non-Mandatory Factors Enhancing the Significance of the Proposed Effort:

a. The activities of the criminal gang under investigation are responsible for known specified significant criminal activity in multiple regions of the State;

b. The proposed investigative plan has identified the types and methods of significant criminal violations under state or federal law actually, or suspected to be, occurring, and articulates a dedicated strategy to identify, trace, and address persons, institutions or other entities that are likely involved;

c. The criminal gang under investigation is known to have and identifies, or is reasonably believed to have, assets and property that constitute contraband under Florida or other law that may be seized and forfeited and the investigative plan contains a strategy to identify such assets and property and to use forfeiture options to disrupt the underlying criminal gang;

d. Persons in the criminal gang under investigation are, upon successful prosecution, likely to receive sentences involving substantial terms of incarceration in state or federal prisons, paying a substantial fine, or both;

e. The proposed investigative effort appears to be likely to be lengthy and complex (as specified in Rule 11N-1.0021, F.A.C.), and will likely require sophisticated electronic, undercover or other investigative techniques;

f. The criminal gang under investigation is such that if investigation and prosecutions are successful it is likely that significant reductions in criminal gang activity within the State of Florida will result; or

g. The proposal presents an innovative plan with a likelihood of success for addressing a significant criminal gang organization. In determining what constitutes a significant criminal gang, the Council shall consider the following factors related to the criminal gang under investigation as may be demonstrated in the request:

i. The number of persons believed to be involved in the criminal gang's illicit activities;

ii. The regional, statewide, national, or multi-national impact upon ongoing criminal activity expected to occur if the investigation successfully disrupts the criminal gang under investigation;

iii. The perceived potential or propensity of the criminal gang for violence, injury to innocent persons, or for any activity reasonably believed to be hazardous to persons or property;

iv. Known or suspected links of the criminal gang or its members to individuals or organizations suspected to be or known to be involved in acts of terrorism as defined at Section 775.30, F.S., or in promoting, planning, or executing acts of violence to further political or other beliefs; and

v. The anticipated reduction in the numbers of criminal gangs or criminal gang members will be curtailed or restricted if the investigation successfully disrupts the criminal gang under investigation.

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History--New _____.

11N-1.003 Limitations on Violent Crime Investigative Reimbursement Funding.

(1) Requests for Violent Crime Investigative Reimbursement Funding.

(a) through (b) No change.

(c) Funding provided under this section from the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account is available to a Florida state or local law enforcement agency agencies and such funding shall be used for violent crime investigative purposes directly linked to the investigative effort. As used herein, "law enforcement agency agencies" is defined as include a Florida police department, a Florida sheriff's-s-offices, a regional office of the Florida Department of Law Enforcement or other Florida and state law enforcement agency agencies, or a troop of the Florida Highway Patrol.; ~~However, for the purposes of this rule, the term excludes the Department of Financial Services, state attorneys' prosecutors' offices, and the Office of Statewide Prosecution except for resources provided by such offices exclusively dedicated to investigative efforts approved for funding by the Council.~~ ~~criminal investigations.~~

(d) through (f) No change.

(2) through (3) No change.

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History--New 3-10-94, Amended 10-10-95, 10-25-01, 12-3-03, _____.

11N-1.0031 Limitations on Drug Control Investigative Funding.

(1) Requests for funding from the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account shall be limited to case-related investigative expenses, salary and overtime for the efforts of officers and employees directly linked to a funded investigation and other expenses related to investigations authorized approved for funding by the DCSCG Committee Council.

(2) Each funding request shall designate a lead investigative agency that will serve as the liaison between the DCSCG Committee Council and the participating agencies for the purposes of coordinating the collection of information and in disbursing funds authorized approved by the DCSCG Committee Council. Each participating agency shall agree to promptly provide requested information to the DCSCG Committee Council, to provide regular performance reports and information related to funded investigations as required by the DCSCG Committee Council, retain documentation and proof of expenditures or personnel efforts as may be required by the DCSCG Committee Council, and submit to any audit or review of the use of received funds as may be required by the DCSCG Committee Council.

(3) If a new an additional agency is brought into the investigation after funding has already been appropriated and no additional monies are being sought and there is no change of focus of the investigation, a lead investigative agency is authorized to request that the new additional agency be permitted to share in Council funds for the investigation.

(a) No change.

(b) Pursuant to Rule 11N-1.0031, F.A.C., the new agency shall guarantee its agreements are completed and obtain agency match funding before presenting its package, with the lead agency's endorsement, to the Chairperson of the Council Chairperson.

(c) The Council Chairperson shall have the ability to make interim ratification of new agencies' additional agencies participation in a specific funded investigation until the next regularly scheduled council meeting at which time the DCSCG Committee entire Council shall vote upon the issue.

(4) Supplemental funding requests shall be presented by the lead investigative agency at the next regularly scheduled Council meeting. Mutually agreed upon investigations may be adopted by reference by the DCSCG Committee Council when there is no change in the original investigative focus and mission of the originally funded investigation.

(5) Funding from the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account is available only to a Florida state or local law enforcement agency and such funding shall be used for investigative purposes directly linked to the investigative effort authorized approved for funding by the DCSCG Committee Council. As used herein, "law enforcement agency" is defined as include a Florida police department, a Florida sheriff's office, a regional office of the Florida Department of Law Enforcement or other Florida state law enforcement agency, the Department of Financial Services, or a troop of the Florida Highway Patrol. However, the term excludes the Department of Financial Services, state attorneys' offices, and the Office of Statewide Prosecution except for resources provided by such offices exclusively dedicated to investigative efforts approved for funding by the Council.

(6) Limits Upon Drug Control Funding.

(a) through (b) No change.

(c) In each agency fiscal year, payment of overtime with Council funds shall not exceed \$10,000 per officer or employee dedicated to the funded investigative efforts within the officer or employee agency's fiscal year. The \$10,000 limit applies to the officer or employee's combined hours dedicated to all Council funded investigative efforts within the fiscal year.

(d) through (e) No change.

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New 10-25-01, Amended 12-3-03, 3-27-06, 3-21-07, _____.

11N-1.0032 Limitations on Criminal Gang Investigative Funding.

(1) Requests for proactive investigative funding from the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account shall be limited to case-related investigative expenses, salary and overtime for the efforts of officers and employees directly linked to a funded investigation and other expenses related to investigations authorized for funding by the DCSCG Committee.

(2) Each funding request shall designate a lead investigative agency that will serve as the liaison between the DCSCG Committee and the participating agencies for the purposes of coordinating the collection of information and in disbursing funds authorized by the DCSCG Committee. Each participating agency shall agree to promptly provide requested information to the DCSCG Committee, to provide regular performance reports and information related to funded investigations as required by the DCSCG Committee, retain documentation and proof of expenditures or personnel efforts as may be required by the DCSCG Committee, and submit to any audit or review of the use of received funds as may be required by the DCSCG Committee.

(3) If an additional agency is brought into the investigation after funding has already been appropriated and no additional monies are being sought and there is no change of focus of the investigation, a lead investigative agency is authorized to request that the additional agency be permitted to share in council funds for the investigation.

(a) The lead agency shall verify and endorse the new agency's participation and that all requirements of Rule 11N-1.0032, F.A.C., will be fulfilled by the new agency.

(b) The new agency shall guarantee its agreements are completed before presenting its package, with the lead agency's

endorsement, to the Council Chairperson.

(c) The Council Chairperson shall have the ability to make interim ratification of additional agencies' participation in a specific funded investigation until the next regularly scheduled council meeting at which time the DCSCG Committee shall vote upon the issue.

(4) Supplemental funding requests shall be presented by the lead investigative agency at the next regularly scheduled Council meeting. Mutually agreed upon investigations may be adopted by reference by the DCSCG Committee when there is no change in the original investigative focus and mission of the originally funded investigation.

(5) Disbursement of proactive investigative funding from the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account is available to a Florida state or local law enforcement agency and such funding shall be used for investigative purposes directly linked to the investigative effort authorized for funding by the DCSCG Committee. As used herein, "law enforcement agency" is defined as a Florida police department, a Florida sheriff's office, a regional office of the Florida Department of Law Enforcement or other Florida state law enforcement agency, or a troop of the Florida Highway Patrol. However, the term excludes the Department of Financial Services, state attorneys' offices, and the Office of Statewide Prosecution except for resources provided by such offices exclusively dedicated to investigative efforts approved for funding by the Council.

(6) Limits Upon Criminal Gang Funding.

(a) The maximum funding provided by the Council on a single investigation shall be \$100,000. However, an approved investigative effort may consist of multiple investigations, each of which may receive funding up to \$100,000.

(b) No law enforcement agency as defined herein may receive more than \$200,000 in Council gang investigative or drug control funds during the agency's fiscal year.

(c) In each agency fiscal year, payment of overtime with Council funds shall not exceed \$10,000 per officer or employee dedicated to funded investigative efforts within the officer or employee agency's fiscal year. The \$10,000 limit applies to the officer or employee's combined hours dedicated to all Council funded investigative efforts within the fiscal year.

(d) The Council may fund all, a portion, or none of a proposed investigative effort seeking proactive criminal gang funding.

(e) Previously-approved criminal gang investigation initiatives are eligible for additional funding from the Council, up to the funding limits set by Rules 11N-1.0031 and 11N-1.0032, F.A.C., and Section 943.031, F.S. In order to receive consideration for additional funding, an entity seeking such consideration must demonstrate:

1. That it has complied fully with reporting and accountability obligations for the initial funding, and;

2. That the request for additional funding conforms with Council requirements for funding, and comports with the originally-funded request, and;

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History—New _____.

11N-1.0051 Procedures for Funding Requests for Drug Control Investigative Funding.

(1) No change.

(2) All requests for drug control investigative effort funds from the ~~DCSCG Committee Violent Crime and Drug Control Council (Council)~~ must be developed in conjunction with, and approved by, the RCT in the region from in which the lead requesting agency is located. No request submitted without the endorsement of the RCT will be considered by the ~~DCSCG Committee Council~~.

(3) through (4) No change.

(5) ~~A completed application for funding shall be submitted by the Chair of the RCT so that it is received at least 30 days prior to the next scheduled Violent Crime and Drug Control Council meeting. Requests shall be mailed to: Florida Violent Crime and Drug Control Council, c/o Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, Florida 32302-1489, Attn.: Investigations and Forensic Science Program. Submissions from a Regional Drug Enforcement Coordinating Team shall be made to the Department of Law Enforcement's Investigations and Forensic Science Program (IFS). Materials being submitted shall be secured and transmitted in a manner to assure that the criminal investigative and criminal intelligence information contained is not compromised.~~

(6) No change.

(7) The IFS shall present to the ~~DCSCG Committee Council~~ all cases forwarded to it by the RCTs, indicating its prioritization determinations at a meeting of the Council. The presentation must include a recommendation of which cases IFS believes should receive funding priority and the amount of drug control funding recommended and may identify the relative strengths and weaknesses of the cases under consideration in meeting the underlying goals of Council funding.

(8) The ~~DCSCG Committee Council~~ will make its drug control funding decisions based upon the information presented to it by IFS, or otherwise made available at a Council meeting, and the availability of funds for use by the ~~DCSCG Committee Council~~. The ~~DCSCG Committee Council~~ may direct that approved funding shall be paid in a lump sum or in installments. The ~~DCSCG Committee Council~~ may fund all, a portion, or none of a request presented to it.

(9) Denial of all or a part of a request shall not disqualify the request from future consideration by the ~~DCSCG Committee Council~~. However, any such request will be considered a new funding request and must be evaluated and approved through the process set forth in this rule, beginning with consideration and approval by the RCT.

(10) No change.

(11) If after receipt of funds, it appears that a funded investigative effort will substantially depart from the focus and

effort originally ~~authorized~~ ~~approved~~ by the ~~DCSCG Committee Council~~, the agencies receiving Council funds shall suspend use of such funds and shall contact the Chair of the RCT and describe the change of focus and effort.

(a) If the new focus and effort is of a type that could be considered for Council funding, the RCT and the participating agencies shall secure ~~DCSCG Committee authorization~~ ~~Council approval~~ for the continued use of Council funds by the funded agencies. Any such request shall be evaluated and approved through the process set forth in this rule, beginning with consideration and approval by the RCT, but shall be expedited to minimize any negative effect the suspension of spending of Council funds may have on the ongoing investigation.

(b) If authorization for continued use of Council funds must be considered prior to the next regular meeting of the Council, the ~~DCSCG Committee Council~~ may consider such requests at a special meeting by phone or videoconference.

(c) The ~~DCSCG Committee Council~~ may endorse changes of focus or efforts and authorize the continued use of Council funds when receiving progress reports during regularly scheduled meetings provided that the RCT and the IFS endorse the new focus or efforts for such continued funding.

(12) No change.

(13) Agencies seeking drug control funding under this section shall cooperate with the RCT in the agencies' area, and provide all information as requested by the RCT to assist in the preparation of a funding request, including information to identify the amounts of agency funds being committed by each participating agency to be matched by Council drug control funds. The head of each requesting agency that seeks to receive Council drug control funds shall include in the submission to the RCT a certification in writing that to the agency head's best knowledge and belief, the request complies with the requirements established by law and this rule for funding. The agency head shall also agree to provide requested information to the ~~DCSCG Committee Council~~ to assist the ~~DCSCG Committee Council~~ in its performance-monitoring obligations and shall agree to retain proof and documentation as may be required by the ~~DCSCG Committee Council~~ and to submit to any audits or reviews of agency utilization of Council funds or funds derived from any Council-funded investigative effort as may be performed. The request shall be accompanied by Form FDLE/IFS-003 Drug Control, Criminal Gang, & Money Laundering Application, revised 10/01/08, and Form FDLE/IFS-006, the State Financial Assistance Form, both revised 08/01/07, incorporated by reference.

(14) Funding Calculations.

(a) In calculating the amount being provided as an agency match, the ~~DCSCG Committee Council~~ shall consider:

1. through 2. No change.

(b) In calculating the amount being provided by a requesting agency for which matching Council funds may be provided, the ~~DCSCG Committee Council~~ shall not consider:

1. through 2. No change.

(15) Council-provided funds shall not be used for any purposes by the requesting agency in calculating its agency match. Where an employee's overtime has been pledged by an agency as a match, no Council-provided funds may be used for the employee's overtime until such time as the agency's match overtime funding has been completely expended. Council funds shall not be used to purchase or lease vehicles, vessels, aircraft or conveyances, computer equipment, or buildings or the maintenance or repair of any such property or equipment. Council funds shall not be used to pay employee base salaries. In each agency's fiscal year, up to \$10,000 in Council funds may be applied to an employee's overtime (including benefits and taxes) for efforts dedicated exclusively to the funded investigative effort. Council funds may be used for the temporary rental of property or equipment for an undercover operation in support of the investigative effort, or for use in surveillance activities tied to the investigative effort. Council funds may be utilized to pay overtime of agency employees' efforts directly in support of the funded investigative effort, limited to \$10,000 per employee in the employee's agency's fiscal year. The \$10,000 limit applies to the employee's combined hours dedicated to all Council funded investigative efforts within the fiscal year.

(16) Council Funding Documentation.

(a) Agencies receiving drug control funding under this section shall provide a written bi-annual report of expenditures of Council funds and of the progress of the investigative effort. The report shall be prepared in consultation with the RCT and submitted by the RCT through the IFS for compilation and presentation at a scheduled Council meeting. Form FDLE/IFS-004, the Violent Crime and Drug Control Council Bi-Annual Report, revised 10/01/08 ~~08/01/07~~, incorporated by reference, shall be utilized to make the report. In addition, the ~~DCSCG Committee Council~~ may require oral progress reports to be made at Council meetings by a representative of the RCT or a designee of the lead investigative agency in a funded investigative effort.

(b) Agencies receiving Council funding shall retain documentation supporting the amounts and purposes of expenditures made from Council funds, the amounts and purposes of expenditure of agency match funds, the performance and accomplishments of the investigative efforts, and shall make these available to the ~~DCSCG Committee Council~~ upon request. With regard to agency personnel assigned to investigative efforts receiving Council funds, each agency shall retain, and make available to the ~~DCSCG Committee Council~~ as requested, each employee's official time and leave records and such other documentation demonstrating the time devoted by the employee to the funded investigative effort, but these records shall not be submitted with Form FDLE/IFS-004.

(c) Agencies receiving Council funding shall provide such other information as required by the ~~DCSCG Committee Council~~ or the IFS in its capacity as support staff, to assist in preparing its annual report to the Legislature, to assist audits of ~~DCSCG Committee Council~~ activities, or to assist the ~~DCSCG Committee Council~~ and IFS in fulfilling their role to monitor the performance of funded investigations.

(17) through (18) No change.

(19) If agencies receiving Council funding fail to submit the required Form FDLE/IFS-004, by the stated deadline, the Council Chairperson in consultation with FDLE/IFS is authorized to demand request that all unexpended funds be returned within 30 days. Upon such a finding, the Agency Head of each funded agency will be notified in writing as to the manner in which such funds must be returned. Any agency that is delinquent in submitting Form FDLE/IFS-004 by 90 or more days shall be subject to this provision.

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History–New 10-25-01, Amended 12-3-03, 3-27-06, 3-21-07, 6-9-08, _____.

11N-1.0052 Procedures for Funding Requests for Criminal Gang Investigative Funding.

(1) The Department of Law Enforcement has established a regional coordinating team (RCT) in each regional office. These RCTs coordinate the identification and development of criminal gang investigative efforts that significantly contribute to achieving the state's goal of reducing criminal gang activity. The identified goals should represent "significant criminal gang investigative efforts", as used herein, eligible for proactive funding, or that otherwise significantly support statewide strategies. Each RCT will be under the direction of the Florida Department of Law Enforcement Special Agent in Charge for the area of the state in which the RCT operates. The RCT should be made up of representatives of state, local, and federal law enforcement and prosecuting entities working within the area.

(2) All funding requests for criminal gang investigative efforts from the DCSCG Committee must be developed in conjunction with, and approved by, the RCT in the region from which the lead requesting agency is located. No request submitted without the endorsement of the RCT will be considered by the DCSCG Committee.

(3) Prior to submitting funding requests for criminal gang investigative efforts to the Department of Law Enforcement for review and consideration for Council funding, the RCT shall assure that the various requirements of this rule have been satisfied. The RCT shall discuss each mandatory criteria element stated in this rule, explaining in detail how the criteria is met. In addition, the RCT shall identify and discuss each non-mandatory criteria identified in this rule reasonably applicable to the request. The RCT shall assure that the funding proposal has been explained in sufficient detail to promote a fair review and evaluation of the request by the Department and the DCSCG Committee.

(4) All submissions to the Department from a RCT must be approved by the RCT and deemed complete, as indicated by the written certification of the chair of the RCT.

(5) A completed application for funding shall be submitted by the Chair of the RCT so that it is received at least 30 days prior to the next scheduled Violent Crime and Drug Control Council meeting. Requests shall be mailed to: Florida Violent Crime and Drug Control Council, c/o Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, Florida 32302-1489, Attn.: Investigations and Forensic Science Program.

(6) The IFS will receive and review all submissions from the various RCTs utilizing the criteria of this rule, and shall prioritize from the pending submissions those proposals that best meet the criteria of this rule and are determined to be criminal gang investigative efforts that are most likely to significantly contribute to achieving the state's goal of reducing criminal gang activity.

(7) The IFS shall present to the Drug Control Strategy and Criminal Gang (DCSCG) Committee all cases forwarded to it by the RCTs, indicating its prioritization determinations at a meeting of the Council. The presentation must include a recommendation of which cases IFS believes should receive funding priority and the amount of proactive criminal gang funding recommended and may identify the relative strengths and weaknesses of the cases under consideration in meeting the underlying goals of Council funding.

(8) The DCSCG Committee will make its criminal proactive decisions based upon the information presented to it by IFS, or otherwise made available at a Council meeting, and the availability of funds for use by the Council. The DCSCG Committee may direct that approved funding shall be paid in a lump sum or in installments. The DCSCG Committee may fund all, a portion, or none of a request.

(9) Denial of all or a part of a request shall not disqualify the request from future consideration by the DCSCG Committee. However, any such request will be considered a new funding request and must be evaluated and approved through the process set forth in this rule, beginning with consideration and approval by the RCT.

(10) Council -provided criminal gang funds shall be expended in a manner consistent with the investigative purposes approved by the Council.

(11) If after receipt of funds, it appears that a funded investigative effort will substantially depart from the focus and effort originally authorized by the DCSCG Committee, the agencies receiving Council funds shall suspend use of such funds and shall contact the chair of the RCT and describe the change of focus and effort.

(a) If the new focus and effort is of a type that could be considered for Council funding, the RCT and the participating agencies shall secure DCSCG Committee authorization for the continued use of Council funds by the funded agencies. Any such request shall be evaluated and authorized through the process set forth in this rule, beginning with consideration and approval by the RCT, but shall be expedited to minimize any negative effect the suspension of spending of Council funds may have on the ongoing investigation.

(b) If authorization for continued use of Council funds must be considered prior to the next regular meeting of the Council, the DCSCG Committee may consider such requests at a special meeting by phone or videoconference.

(c) The DCSCG Committee may endorse changes of focus or efforts and authorize the continued use of Council funds when receiving progress reports during regularly scheduled meetings provided that the RCT and the IFS endorse the new

focus or efforts for such continued funding.

(12) In order to assure careful consideration of original requests for criminal proactive and resubmitted requests for funding that have been previously denied, all written requests, to include completed application forms, case synopses, financial forms, and approvals shall be submitted by the chair of the RCT to the IFS no later than 30 days prior to the meeting of the Council in which the request for funding might be considered.

(13) Each agency seeking criminal proactive under this section shall cooperate with the RCT in the agencies' area, and provide all information as requested by the RCT to assist in the preparation of a funding request, including information to identify the amounts of agency funds being requested by the participating agency. The head of each requesting agency that seeks to receive Council criminal gang funds shall include in the submission to the RCT a certification in writing that to the agency head's best knowledge and belief, the request complies with the requirements established by law and this rule for funding. The agency head shall also agree to provide requested information to the Council to assist the Council in its performance-monitoring obligations and shall agree to retain proof and documentation as may be required by the Council and to submit to any audits or reviews of agency utilization of Council funds or funds derived from any Council-funded investigative effort as may be performed. The request shall be accompanied by Form FDLE/IFS-003, Drug Control, Criminal Gang & Money Laundering Application, revised 10/01/08, and Form FDLE/IFS-006, the State Financial Assistance Form, revised 08/01/07, incorporated by reference.

(14) Funding Calculations.

(a) In calculating the amount being provided as an agency match, the DCSCG Committee shall consider:

1. The base salary (including benefits and taxes) and overtime compensation pledged (including benefits and taxes) of agency employees for that portion of the employees' efforts dedicated exclusively to the proposed investigative effort, and

2. Normal operating costs directly attributable to the proposed investigative effort as specifically identified by the requesting agency, subject to the exclusions listed below.

(b) In calculating the amount being provided by a requesting agency for which matching Council funds may be provided, the DCSCG Committee shall not consider:

1. Funding received by the agencies from federal sources or

2. Funding utilized for:

a. Purchases of equipment that will be retained in a participating agency's inventory;

b. The cost of purchased vehicles, vessels, aircrafts, or conveyances;

c. Any expense or purchase that appears to be incidental to, or otherwise failing to be shown to substantially support, the proposed investigative effort;

d. Seminar and training expenses for employees or officers assigned to the proposed effort; and

e. Rental or purchases of buildings and costs associated with the use or operation of such buildings, such as utilities and maintenance.

(15) Council-provided funds shall not be used to purchase or lease vehicles, vessels, aircraft or conveyances, computer equipment, or buildings or the maintenance or repair of any such property or equipment. Council funds shall not be used to pay employee base salaries. In each agency's fiscal year, up to \$10,000 in Council funds may be applied to an employee's overtime (including benefits and taxes) for efforts dedicated exclusively to the funded investigative effort. Council funds may be used for the temporary rental of property or equipment for an undercover operation in support of the investigative effort, or for use in surveillance activities tied to the investigative effort. Council funds may be utilized to pay overtime of agency employees' efforts directly in support of the funded investigative effort, limited to \$10,000 per employee in the employee's agency's fiscal year. The \$10,000 limit applies to the employee's combined hours dedicated to all Council funded investigative efforts within the fiscal year.

(16) Council Funding Documentation.

(a) Agencies receiving proactive criminal gang funding under this section shall provide a written bi-annual report of expenditures of Council funds and of the progress of the investigative effort. The report shall be prepared in consultation with the RCT and submitted by the RCT through the IFS for compilation and presentation to the Council at a Council meeting. Form FDLE/IFS-004, Violent Crime and Drug Control Council Bi-Annual Report, revised 10/01/08, incorporated by reference, shall be utilized to make the report. In addition, the Council may require oral progress reports to be made at Council meetings by a representative of the RCT or a designee of the lead investigative agency in a funded investigative effort.

(b) Agencies receiving Council funding shall retain documentation supporting the amounts and purposes of expenditures made from Council funds, the performance and accomplishments of the investigative efforts, and shall make these available to the Council upon request. With regard to agency personnel assigned to investigative efforts receiving Council funds, each agency shall retain, and make available to the Council as requested, each employee's official time and leave records and such other documentation demonstrating the time devoted by the employee to the funded investigative effort, but these records shall not be submitted with Form FDLE/IFS-004.

(c) Agencies receiving Council funding shall provide such other information as required by the Council or the IFS in its capacity as support staff, to assist in preparing its annual report to the Legislature, to assist audits of Council activities, or to assist the Council and IFS in fulfilling their role to monitor the performance of funded investigations.

(17) If funds provided by the Council remain unexpended upon the conclusion of any investigative effort, the participating agencies shall return unexpended Council funds to the Council within 90 days of the conclusion of the

investigative effort.

(18) If an agency receiving Council funds is subsequently reimbursed or funded from another source of funding for the expenditures funded by the Council, the receiving agency shall return to the Council an amount that is the lesser of the subsequent reimbursement or the funding received from the Council.

(19) If agencies receiving Council funding fail to submit the required Form FDLE/IFS-004, by the stated deadline, the Council Chairperson in consultation with FDLE/IFS staff is authorized to demand that all unexpended funds be returned within 30 days. Upon such a finding, the Agency Head of the funded agencies will be notified in writing as to the manner in which such funds must be returned. Any agency that is delinquent in submitting Form FDLE/IFS-004 by 90 or more days shall be subject to this provision.

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History--New _____.

11N-1.006 Contributions.

Local law enforcement agencies or other entities may contribute to the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account by submitting funds to the executive director of the Department of Law Enforcement. Contributions should be accompanied by a written statement designating the funds to the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account. Agencies receiving forfeiture proceeds by reason of an investigative effort receiving Council funds may contribute a portion of those proceeds to the Department of Law Enforcement for use by the Council in further funding efforts.

Specific Authority 943.03(4), 943.042 FS. Law Implemented 943.031, 943.042 FS. History--New 3-10-94, Amended 10-10-95, 10-25-01, 3-27-06, _____.