

D.U.I. PROBABLE CAUSE AFFIDAVIT

ON THE 13TH DAY OF NOVEMBER 20 20 AT 2304 AM PM
SUBJECT: ROSAS, FRANCISCO CASE NUMBER: DBPD #20-14873
AGENCY: DELRAY BEACH PD ARRESTING OFFICER: WINDSOR #1029

PERSONAL CONTACT

DRIVING PATTERN: ACTUAL PHYSICAL CONTROL (PHYSICAL EVIDENCE OR STATEMENTS PUTTING DEF. BEHIND WHEEL OF VEHICLE)

The following occurred in the City of Delray Beach, County of Palm Beach, FL.

On 11/13/20 at 2304hrs Ofc. Culberson #1135 DBPD was traveling south in the 1600 block of S. Congress Ave. Ofc. Culberson had a clear view of the intersection of S. Congress Ave. and Old Germantown Rd. The southbound traffic signal was steady green. Ofc. Culberson observed a white 2016 Mitsubishi Outlander (IL Tag #S289859) stopped in the eastbound left turn lane of Old Germantown Rd. The Mitsubishi then entered the intersection on a steady red traffic signal and make a left turn (north) onto S. Congress Ave. Ofc. Culberson conducted a traffic stop by activating his emergency lights on his marked DBPD patrol vehicle in the 1600 block of S. Congress Ave. The Hispanic male driver was sitting in the driver seat and was the only person inside the Mitsubishi. The Mitsubishi's engine was running. The Hispanic driver was identified by his FL DL as Francisco Rosas. I identified myself and informed Rosas I was on scene to conduct a DUI investigation. Rosas acknowledged he understood why I was on scene. During search incident to arrest, I removed the Mitsubishi's key fob from Rosas' pants pocket. During an inventory prior to tow, a glass pipe that is commonly used to smoke marijuana was found in the driver door pocket within reach of Rosas. The glass pipe was entered into evidence by Ofc. Culberson.

OBSERVATION OF DRIVER:

I smelled a strong odor of Marijuana coming from Rosas. Rosas' eyes were extremely red and had a glass like appearance. Rosas was initially cooperative while being questioned but became agitated and uncooperative when asked to perform roadsides. Rosas' pupils were dilated and did not react to light changes. After Rosas exited the Mitsubishi, I placed Rosas under arrest and walked him to the front of my patrol vehicle. After walking away, I smelled an odor of an unknown alcoholic beverage coming from Rosas' breath.

DRIVER'S STATEMENTS:

Rosas stated he started driving at his friend's residence located in Axis Delray Beach (1495 Spring Harbor Dr, Delray Beach, FL 33445). Rosas stated he was on his way home when the traffic stop was conducted. Rosas stated he did not have any medical conditions or take any medications that would effect his ability to operate a motor vehicle. Rosas denied consuming any alcoholic beverages or using any illegal drugs prior to driving. When questioned about the red light violation, Rosas stated he entered the intersection on a steady yellow light. I informed Rosas I viewed the in-car video from Ofc. Culberson's patrol vehicle and it showed the southbound traffic signal as a steady green light. The video also showed the Mitsubishi stopped at the intersection. Rosas again stated he entered the intersection on a steady yellow traffic signal. I asked Rosas why he would be stopped at an intersection and wait till the traffic signal turned yellow to enter the intersection. Rosas would not answer and looked away from me. I requested Rosas perform roadsides to dispel my suspicion he was driving under the influence. Rosas refused to perform roadsides. I notified Rosas of Taylor Warning and he acknowledged he understood. Rosas again refused roadsides and stated if I feel he was under the influence to arrest him.

ODORS:

Rosas had a very strong odor of Marijuana and an odor of an unknown alcoholic beverage.

GENERAL OBSERVATIONS

SPEECH: Slurred.

ATTITUDE: Initially Polite and Became Agitated / Uncooperative

CLOTHING: Gray Shirt and Blue Jeans with Blue Shoes

MEDICAL/OTHER: None Stated

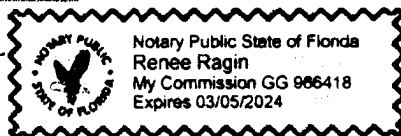
STATE OF FLORIDA
COUNTY OF PALM BEACH

(Signature of Arresting/Investigative Officer)

The foregoing instrument was read to or affirmed and subscribed before me this 13th day of Novemeber 20 20 by Ofc. Windsor #1029

(Print name of Arresting/Investigative Officer), who is personally known to me and/or produced identification. Type of identification produced known

Notary Public, Sheriff's Court, Officer (F.S.S. 117.10)



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NOV 14 2020

SUBJECT: ROSAS, FRANCISCO CASE NUMBER _____ DBPD #20-14873 _____

ROADSIDE TASKS

HORIZONTAL GAZE NYSTAGMUS:

LT EYE-LACK OF SMOOTH PURSUIT

RT EYE-LACK OF SMOOTH PURSUIT

LT EYE-DISTINCT & SUSTAINED NYSTAGMUS AT MAX. DEVIATION

RT EYE-DISTINCT & SUSTAINED NYSTAGMUS AT MAX. DEVIATION

LT- EYE-ONSET OF NYSTAGMUS PRIOR TO 45 DEGREES

RT- EYE-ONSET OF NYSTAGMUS PRIOR TO 45 DEGREES

Other Observations:

ROSAS REFUSED ALL ROADSIDES.

WALK & TURN:

ROSAS REFUSED ALL ROADSIDES.

ONE LEG STAND:

ROSAS REFUSED ALL ROADSIDES.

FINGER TO NOSE:

ROSAS REFUSED ALL ROADSIDES.

ROMBERG ALPHABET:

ROSAS REFUSED ALL ROADSIDES.

BREATH TEST RESULTS:

1) Refused	2)	3)	4)
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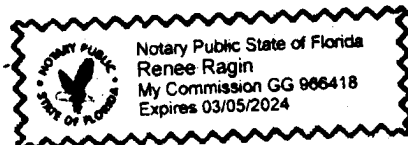
STATE OF FLORIDA
COUNTY OF PALM BEACH

(Signature of Arresting/Investigative Officer)

The foregoing instrument was sworn to, affirmed and subscribed before me this 13th day of November, 2020 by Ofc. Windsor #1029

(Print name of Arresting/Investigative Officer), who is personally known to me and/or produced identification. Type of identification produced Known

Notary Public, Clerk of Court, Officer (F.S.S. 117.10)



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**STATE OF FLORIDA
DEPARTMENT OF HIGHWAY SAFETY & MOTOR VEHICLES
AFFIDAVIT OF REFUSAL TO SUBMIT TO
BREATH AND/OR URINE TEST**

I, Nicholas Windsor, a duly certified Law Enforcement Officer or Correctional Officer,
(Name of Officer reading Implied Consent Warning)
am a member of Delray Beach Police Department, and I do swear
(Name of law enforcement agency)

or affirm that on or about the 13th day of Novemeber, 20 20, at 2332 P.M. A.M.

DRIVER Francisco Rosas
(Type or Print) FIRST NAME MIDDLE OR MAIDEN NAME LAST NAME

DL# R220240853670, state of Florida, was placed under lawful arrest for
the offense of Driving Under the Influence by Ofc. Windsor #1029 and
issued Citation # A1UR7IE (Name of Arresting Officer)

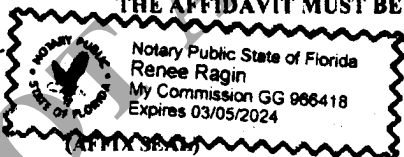
That on or about the 14th day of November, 20 20, at 0026 P.M. A.M.
in Palm Beach County.

I requested that the driver submit to a breath and/or urine test to determine his or her blood alcohol level and/or the presence of chemical or controlled substances. I informed the driver that the refusal to submit to such test(s) would result in the suspension of his or her driving privilege for a period of one (1) year for a first refusal, or for a period of eighteen (18) months if his or her driving privilege had been previously suspended for refusing to submit to a breath, urine or blood test. I also informed the driver that he or she commits a misdemeanor by refusing to submit to a lawful test as requested above if his or her driving privilege has been previously suspended for refusal to submit to a lawful test of his or her breath, urine, or blood. Additionally, I informed the driver that if he or she holds a CDL, or was operating a CMV, refusal will result in the disqualification of the Commercial Driver's License/driving privilege for a period of one (1) year in the case of a first refusal or permanently if he or she has previously been disqualified as a result of a refusal to submit to any such lawful test. Nonetheless, the driver refused to submit to the test(s) requested.



Signature of Law Enforcement Officer or
Correctional Officer

THE AFFIDAVIT MUST BE NOTARIZED OR ATTESTED TO (F.S. 117.10)



The foregoing instrument was sworn and subscribed before
me this 14 day of Nov, 20 20,
by Ofc. N. Windsor,

who is personally known to me or who has produced
Knowlton as identification

Notary Public Renee Ragin

HSMV-BAR1001 (REV 10/2016)

The foregoing instrument was sworn and subscribed before me:

Signature of Attesting Officer

Title _____

Date _____

Note: Mail or hand deliver to the designated Bureau of Administrative Reviews office, Department of Highway Safety and Motor Vehicles, with the driver's license, the appropriate copy of the UTC, and the probable cause affidavit.

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NOV 14 2020

WITNESS LIST

CASE NUMBER: DBPD #20-14873

ARRESTING OFFICER: OFC. WINDSOR #1029 DELRAY BEACH POLICE DEPARTMENT

ADDRESS: 300 W ATLANTIC AVE DELRAY BEACH, FL 33444

PHONE NUMBERS (HOME): _____ (WORK) 561-243-7800

CAN TESTIFY TO: DUI PC

NAME: OFC. CULBERSON #1135 DELRAY BEACH POLICE DEPARTMENT

ADDRESS: 300 W ATLANTIC AVE DELRAY BEACH, FL 33444

PHONE NUMBERS (HOME) _____ (WORK) 561-243-7800

CAN TESTIFY TO: TRAFFIC VIOLATION

NAME: _____

ADDRESS _____

PHONE NUMBERS (HOME) _____ (WORK) _____

CAN TESTIFY TO: _____

NAME: _____

ADDRESS _____

PHONE NUMBERS (HOME) _____ (WORK) _____

CAN TESTIFY TO: _____

NAME: _____

ADDRESS _____

PHONE NUMBERS (HOME) _____ (WORK) _____

CAN TESTIFY TO: _____

NAME: _____

ADDRESS _____

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CAN TESTIFY TO: _____

NAME: _____

ADDRESS _____

PHONE NUMBERS (HOME) _____ (WORK) _____

CAN TESTIFY TO: _____

NAME: _____

ADDRESS _____

PHONE NUMBERS (HOME) _____ (WORK) _____

CAN TESTIFY TO: _____

NOT A CERTIFIED COPY

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**PALM BEACH COUNTY SHERIFF'S OFFICE
DUI TESTING FACILITY
INFORMATION SHEET**

PBSO CASE # 20-126778 PBSO ZONE 4-22

AGENCY CASE # 20-14873 CRASH CASE # N/A

TIME OF STOP/CRASH 2304 DATE 11/13/20 DAY FRIDAY

SUBJECT'S NAME ROSAS, FRANCISCO RACE W SEX M

HGT 5'04" WGT 150 DOB 10/07/85

LOCATION 1600 BLOCK S CONGRESS AVE DELRAY BEACH, FL

ARRESTING OFFICER'S NAME & ID WINDSOR #1029 AGENCY DELRAY BEACH PD

DIVISION: TRAFFIC

NOTIFIED BY COMMO YES

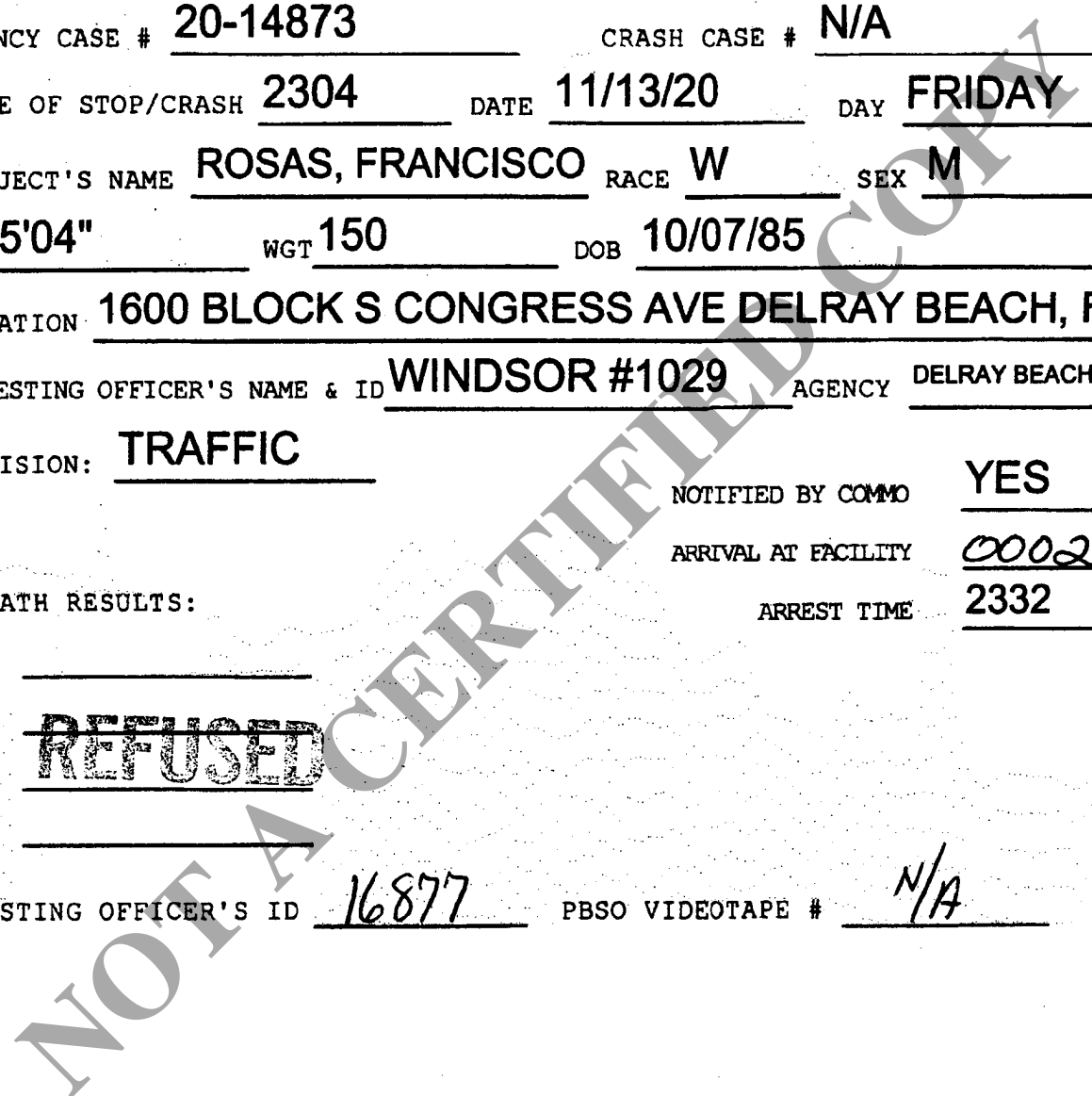
ARRIVAL AT FACILITY 0002

ARREST TIME 2332

BREATH RESULTS:

- 1) _____
- 2) REFUSED
- 3) _____
- 4) _____

TESTING OFFICER'S ID 16877 PBSO VIDEOTAPE # N/A



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TESTING FACILITY TASK REPORT

AGENCY: DBPD

SUBJECT: Rosas, Francisco CASE NUMBER: 20-126778

DATE: Nov 14, 2020 VIDEO DVD NUMBER: N/A

BEGINNING TIME: 00:25 ENDING TIME: 00:27

BREATH TESTS RESULTS: 1) Refusal TIME 00:26 A.M. P.M. 2) N/A TIME A.M. P.M.

3) N/A TIME A.M. P.M. 4) N/A TIME A.M. P.M.

BREATH OPERATOR: R. Ragin #16877

MAINTENANCE TECHNICIAN: Jason Karlecke #6467

TESTING OFFICER'S OBSERVATIONS

SPEECH: Slurred

ATTITUDE: Rude, cocky, mad

CLOTHING: Blue jeans, gray shirt, blue sneakers

MEDICAL CONDITIONS: None

MEDICATIONS: None

OTHER:

Eyes bloodshot
Odor of unknown alcoholic beverage on breath.

COMMENTS:

Arrived at center A/O started 20 minute observation period at 00:02 hrs.

Subject refused to take breath test.

A/O read I/C and subject stated he understood I/C.

Subject refused to take test.

A/O read rights.
Subject stated understood rights.

A/O attempted Q&A.
Subject refuse to answer questions.

RECEIVED

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SUBJECT: Rosas, Francisco CASE NUMBER: DBPD 30-14873

IMPLIED CONSENT FOR DUI IN A MOTOR VEHICLE

NOTE: READ ONLY THE PARAGRAPH APPLICABLE TO THE TYPE OF TEST YOU ARE REQUESTING.

I am now requesting that you submit to a lawful test of your BREATH for the purpose of determining its alcohol content.

-OR-

I am now requesting that you submit to a lawful test of your URINE for the purpose of detecting the presence of chemical or controlled substances.

-OR-

I am now requesting that you submit to a lawful test of your BLOOD for the purpose of detecting its alcohol content and the presence of chemical or controlled substances.

NOTE: READ ONLY IF THE SUBJECT DOES NOT COMPLY WITH YOUR REQUEST.

I am Michael Windsor of the San Diego Police Dept.

If you fail to submit to the test I have requested of you, your privilege to operate a motor vehicle will be suspended for a period of one (1) year for a first refusal, or eighteen (18) months if your privilege has been previously suspended as a result of a refusal to submit to a lawful test of your breath, urine or blood. Additionally, if you refuse to submit to the test I have requested of you and if your driving privilege has been previously suspended for a prior refusal to submit to a lawful test of your breath, urine or blood, you will be committing a misdemeanor. Refusal to submit to the test I have requested of you is admissible into evidence in any criminal proceeding.

SUBJECT'S SIGNATURE: (X) Read on Camera

CONSTITUTIONAL WARNINGS

I AM REQUIRED TO WARN YOU BEFORE YOU MAKE ANY STATEMENTS THAT YOU HAVE THE FOLLOWING RIGHTS:

1. You have the right to remain silent and not answer any questions.
2. Any statement must be freely and voluntarily given.
3. You have the right to the presence of a lawyer of your choice before you make any statement and during any questioning.
4. If you cannot afford a lawyer, you are entitled to the presence of a court appointed lawyer before you make any statements and during any questioning.
5. If at any time during the interview you do not wish to answer any questions, you are privileged to remain silent.
6. I can make no threats or promises to induce you to make a statement. This must be of your own free will.
7. Any statement can and will be used against you in a court of law.

SUSPECT'S SIGNATURE: (X) Read on Camera SCANNED NOV 14 2020

SUBJECT: Rosa, Francisco CASE NUMBER: DBPD 20-14873

QUESTIONS AND ANSWERS

I AM NOW GOING TO ASK YOU SOME QUESTIONS. WITH THESE RIGHTS IN MIND, YOU MAY ANSWER SOME OF, ALL OF, OR NONE OF THE FOLLOWING QUESTIONS AS YOU LIKE.

WERE YOU OPERATING A MOTOR VEHICLE AT THE TIME OF THE STOP/ACCIDENT? _____

WHERE WERE YOU GOING? _____

WHAT STREET OR HIGHWAY WERE YOU ON? _____

DIRECTION OF TRAVEL? _____ WHERE DID YOU START? _____

WHAT TIME DID YOU START? _____ WHAT TIME IS IT NOW? _____

WHAT IS TODAY'S DATE? _____ WHAT DAY OF THE WEEK IS IT? _____

WHAT COUNTY AND CITY ARE YOU IN NOW? _____

WHEN DID YOU LAST EAT? _____ WHAT DID YOU EAT? _____

WHAT HAVE YOU BEEN DOING FOR THE LAST THREE HOURS? _____

HOW MUCH DO YOU WEIGH? _____ HAVE YOU BEEN DRINKING? _____ WHAT? _____

HOW MUCH? _____ WHERE? _____ WITH WHOM? _____

WHEN DID YOU HAVE YOUR FIRST DRINK? _____ AND YOUR LAST DRINK? _____

HOW DID YOU CONSUME YOUR LAST TWO DRINKS? _____

CAN YOU FEEL THE EFFECTS OF THE ALCOHOL? _____ ARE YOU UNDER THE INFLUENCE? _____

HAVE YOU CONSUMED ANY ALCOHOL SINCE THE ACCIDENT? _____ HOW MUCH? _____

WHAT? _____ WHERE? _____ WHEN? _____

WHAT LINE OF WORK ARE YOU IN? _____ WHEN DID YOU LAST WORK? _____

DO YOU HAVE ANY PHYSICAL DEFECTS OR INJURIES? _____ WHAT? _____

ARE YOU SICK OR INJURED? _____ WHAT'S WRONG? _____

DO YOU LIMP? _____ DID YOU RECEIVE A BUMP ON THE HEAD RECENTLY? _____

WERE YOU IN AN ACCIDENT TODAY? _____

HAVE YOU TAKEN ANY DRUGS OR SMOKED ANY MARIJUANA TODAY? _____ WHEN? _____

HAVE YOU SEEN A DOCTOR OR DENTIST TODAY? _____ WHO? _____ WHY? _____

ARE YOU TAKING ANY PRESCRIPTION MEDICINES? _____ WHAT? _____ WHEN? _____

DO YOU HAVE:

- EPILEPSY? _____
- GLASS EYE? _____
- FALSE TEETH? _____
- EAR INFECTION? _____
- INNER EAR TROUBLE? _____
- DIABETES? _____

DO YOU HAVE ANY PROBLEMS WITH YOUR EYES THAT ARE NOT CORRECTED BY GLASSES? _____

DO YOU TAKE INSULIN? _____ IF SO, WHEN WAS YOUR LAST INJECTION? _____

HAVE YOU EVER HAD A DRIVER'S LICENSE IN ANY OTHER STATE? _____ WHERE? _____

INTERVIEWER: OIC WINDSOR #1079 DBPD

WHITE - STATE ATTY. YELLOW - DHSMV PINK - CENTRAL RECORDS GOLD - JAIL

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PALM BEACH COUNTY SHERIFF'S OFFICE

Florida State Statute Exemption Sheet

Palm Beach County Sheriff's Office – Arrests Only

	X	Florida State Statute	Description	Page Number(s)
L/E Exemptions	<input type="checkbox"/>	119.071(2)(d)	Surveillance techniques, procedures and personnel; inventory of law enforcement resources, policies or plans pertaining to mobilization deployment or tactical operations.	
	<input type="checkbox"/>	943.053, 943.0525	NCIC/FCIC/FBI and in-state FDLE/DOC.	
	<input type="checkbox"/>	119.071(4)(c)	Undercover personnel.	
	<input type="checkbox"/>	119.071(2)(f)	Confidential informants (CIs).	
	<input type="checkbox"/>	119.071(2)(e)	Confession.	
Public Info. Exemptions	<input type="checkbox"/>	985.04(1)	Juvenile offender records.	
	<input type="checkbox"/>	119.071(h)(i)	Assets of a crime victim.	
	<input type="checkbox"/>	395.3025(7)(a), 456.057(7)(a)	Medical information.	
	<input type="checkbox"/>	394.4615(7)	Mental health information.	
	<input type="checkbox"/>	119.071(4)(d)(2)(a)	Home address, telephone, Social Security number, date of birth, or photos of active/former LE personnel, spouses, and children.	
Florida Rules of Judicial Administration 2.420 (Rule of 23)	<input checked="" type="checkbox"/>	(iii) 119.0714(1)(i)-(j), 2)(a)-(e)	Social Security, bank account, charge, debit, and credit card numbers.	2
	<input type="checkbox"/>	(viii) 394.4615(7)	Clinical records under the Baker Act.	
	<input type="checkbox"/>	(xii) 741.30(3)(b)	The victim's address in a domestic violence action on petitioner's request.	
	<input type="checkbox"/>	(xiii) 119.071(2)(h), 119.0714(1)(h)	Protected information regarding victims of child abuse or sexual offenses.	
	<input type="checkbox"/>			
	<input type="checkbox"/>			
	<input type="checkbox"/>			
	<input type="checkbox"/>			
Other	<input type="checkbox"/>		Other:	
	<input type="checkbox"/>		Other:	

REVIEW COMPLETED BY

Booking Number: 2020026798	Date: 11/14/2020
	Specialist Name/ID: T Howard/7185

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NOV 14 2020