

20 CT 2367 SR

Arrest Report

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FLORIDA HIGHWAY PATROL
P.O. BOX 540007, GREENACRES, FL 33454

Report Date / Time 2/8/2020 02:50 AM	Report Number FHP99ARR816339	Case Number/Cad Number FHPL20OFF008361 / LWRC20CAD022716	Reporting Officer Name Z. TODD
Originating Agency ORI	Occur Date Time Range 02/08/2020 02:15:26 -	Jurisdiction	Clearance

Location of Occurrence

County PALM BEACH	Location Type PUBLIC PLACE	Location Description ROADWAY
Street Number SR-9	Street NB OKEECHOBEE BLVD	Apt/Lot/Bldg WEST PALM BEACH
City WEST PALM BEACH	State FL	Zip Code 33401

Defendant

First Name MARCELA	Middle Name	Last Name GOMEZ	Suffix	Race WHITE	Sex FEMALE	Height 503	Weight 120	Hair BRO	Eyes BRO
MNI #	SSN	Date of Birth 06/06/1984	Age 35	Place of Birth COLOMBIA FF COLOMBIA	Drivers License or other ID G520540847061	State FL	ID Type E	Address * RESIDENCE / 14704 74TH ST N , LOXHATCHEE GROVES, FL 33470 /	

Arrest

Arrest Date/Time 2/8/2020 2:41:58 AM	Arrest Location Type	Arrest Location Description
Street Number SR-9	Street NB OKEECHOBEE BLVD	Apt/Lot/Bldg PALM BEACH
City WEST PALM BEACH	State FL	Zip Code 33401

Charge : S

Counts 1	Charge 316.193.1A	Bond Amount \$0.00	<input type="checkbox"/> No Bond
Charge Degree N	Charge Level MISDEMEANOR	General Offense Code DUI-UNLAW BLD ALCH	
Charge Description DUI ALCOHOL OR DRUGS			

Bond Set by Court

Bond Amount	<input type="checkbox"/> No Bond
Bond Type(s)	

Probable Cause

On February 8, 2020 I was on routine patrol in my marked patrol car in Palm Beach County. I responded to the report of a suspected reckless driver that was traveling northbound on I-95 (State Road 9) from Hypoluxo Road. I was able to gain visual of the vehicle traveling northbound from Forest Hill Blvd (SR 882). I observed that the vehicle was failing to maintain a single lane and was swaying

Arrest Report

SPANN 8/16/

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FEB -9 AM 8:09
IR. BOCK, CLERK
PALM BEACH COUNTY, FL
CLUB BRANCH

FEB 09 2020

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back and forth. I then activated my emergency lights and sirens to initiate a traffic stop on the vehicle. The vehicle yielded to the right paved shoulder of the roadway. I approached the vehicle and identified myself. I observed that the driver was the sole occupant of the vehicle. The driver stated that she does not have a medical condition or emergency that could cause the driving pattern exhibited. The driver also stated that there were no issues with the vehicle. I observed that the driver had bloodshot glassy eyes, and there was an odor of an unknown alcoholic beverage emitting from her breath as she talked. I then requested that she step out of the vehicle and stand in front of my patrol car. As she stood there, I observed that she had an orbital sway, bloodshot glassy eyes, and the odor of an unknown alcoholic beverage was emitting from her breath as she talked. I then requested that she conduct field sobriety exercises and she agreed. The driver was identified as Marcella Gomez by her FL DL.

Officer H. Jenkins from Delray Beach PD stated to me that he was behind the vehicle on I-95. He stated that he observed the vehicle fail to maintain a single lane and drive off the roadway onto the shoulder multiple times. He also observed that the vehicle was varying in speed and left the left turn signal on for multiple miles before turning it off.

Horizontal Gaze Nystagmus

Before beginning the exercises, I checked to see if Ms. Gomez was wearing glasses or contact lenses. It was determined that Ms. Gomez was not wearing glasses but was wearing contacts. I then checked her eyes and observed equal tracking and equal pupil size. She was instructed to place her feet together and place her hands down at her side. She then was instructed to keep her head still and follow the stimulus with her eyes and her eyes only. She was also instructed to keep looking at the stimulus until told not to. She verbally indicated that she understood. During the exercise I observed 6 of the 6 possible clues.

- Lack of smooth pursuit, left eye
- Lack of smooth pursuit, right eye
- A distinct and sustained nystagmus at maximum deviation in the left eye
- A distinct and sustained nystagmus at maximum deviation in the right eye
- An onset of nystagmus prior to 45 degrees in the left eye
- An onset of nystagmus prior to 45 degrees in the right eye

I observed vertical nystagmus. Angle of Onset 40°.

During the exercise Ms. Gomez had to be told to stay in the proper position and not to move her head during the exercise. I also observed Ms. Gomez to have orbital sway. I again observed the odor of an unknown alcoholic substance emitting from her breath.

Walk and Turn Exercise

The area was level and free of debris. Ms. Gomez indicated that she observed the white line on the

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FEB 09 2020

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ground. Ms. Gomez was instructed to put her left foot on the line, then place her right foot on the line ahead of the left foot in a heel to toe manner. I then demonstrated this position. She was instructed not to begin untold to do so. Ms. Gomez verbally indicated that she has understood all instructions up to this point. Ms. Gomez was then instructed to take 9 heel to toe steps on the line when told to do so. I then demonstrated this. Ms. Gomez was then instructed to turn on the ninth step and to keep the front foot on the line and to take a series of small steps with the foot on the line. I then demonstrated this. Ms. Gomez was also instructed to keep her arms at her sides and to watch her feet during the exercise. Ms. Gomez was also instructed to count aloud and to not stop once she begins the exercise. She was also instructed to keep her arms at her sides at all times.

Ms. Gomez began the exercise too soon and had to be told to wait and to get back into the starting position multiple times. She began the exercise and stepped off the line on multiple steps. Ms. Gomez also did not count aloud and showed difficulty keeping balance. She used her arms for balance and raised them higher than 6 inches. While completing the turn Ms. Gomez took both feet off the line and incorrectly completed the turn. She also did not touch heel to toe on all steps. Ms. Gomez took 8 steps forward and 9 steps back. She stopped while completing the turn and asked for further instructions.

One Leg Stand Exercise

Ms. Gomez was instructed to stand with her feet together and to place her arms down at her side. Ms. Gomez was instructed to maintain that position until told to do so. Once told to do so, she was instructed to raise one leg approximately 6 inches off the ground and to keep both legs straight with both arms at her side. She was also instructed to look at the elevated foot and count aloud in the manner of one thousand-one, one thousand-two and so on until told to stop. Ms. Gomez verbally indicated that she understood the instructions after I demonstrated to her.

Ms. Gomez was told to begin and raised her left foot. During the exercise Ms. Gomez displayed an orbital sway and had to use her arms multiple times to keep from losing balance. She raised her arm approximately 6-7 inches away from her body. She also did not raise her foot six inches off the ground or keep both legs straight. She raised her foot approximately 8 inches. Ms. Gomez placed her foot down during the exercise multiple times and stopped the exercise as well as hopped. She did not look down at her foot during the exercise.

She was then placed under arrest for DUI and transported to the county jail. Once I arrived at the testing facility, I conducted a 20-minute observation. At no time did she regurgitate or take anything by mouth. I then requested that she provide a lawful sample of her breath and she refused. Implied consent was read and explained multiple times. She was unable to answer the request for a breath test and a refusal was taken. She also refused to sign the citations. She was then booked into the county jail.

The above incident occurred in Palm Beach County.

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Jail Bookin Facility

Booking Date/Time 0.0000	Booking County PALM BEACH	Booking Facility PALM BEACH COUNTY CORRECTIONS	Booking Facility Phone Number (561) 688-4400
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Booking Facility Location Booking Number

3228 GUN CLUB ROAD WEST PALM BEACH, FLORIDA 33406

Booking Comments



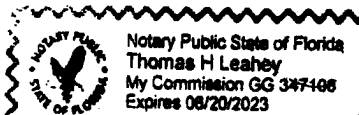
Court

Court County PALM BEACH	Court Location 200 WEST ATLANTIC AVE. DELRAY BEACH, FL 33444		
Court PALM BEACH SOUTH COUNTY COURTHOUSE	Court Phone 561-274-1530	Court Apperance Date / Time 03/02/2020 830 AM	Court Fine
Comments			

Officer Name Rank / ID # Z. TODD TROOPER 4141	Involvement On Report / Reporting Role REPORTING OFFICER	Officer Agency Org/Unit FLORIDA HIGHWAY PATROL FHPLLWRCCLP/ALM BEACHSR804 JSOF SR702
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The undersigned certifies and swears that he/she has just and reasonable grounds to believe that the above named Defendant, committed violation(s), of law, on the below date(s) and time(s), as listed in the probable cause associated with this report:

Reporting Officer

Officer Name Z. TODD	Office Rank TROOPER	Officer ID No 4141	Sworn and subscribed before me, the undersigned authority This the <u>08</u> day of <u>February</u> , <u>2020</u> DEPUTY OF THE COURT, NOTARY OR LAW ENFORCEMENT
Officer Agency FLORIDA HIGHWAY PATROL	  		
Officer Signature			



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

PBSO CASE # 20-035602 PBSO ZONE 3-22

AGENCY CASE # FHPL200FF008361 CRASH CASE # _____

TIME OF STOP/CRASH 0226 DATE 2/8/20 DAY SAT

SUBJECT'S NAME MARCELA GOMEZ RACE W SEX F

HGT 5'03 WGT 120 DOB 06/06/84

LOCATION I-95 NB Okeechobee BND

ARRESTING OFFICER'S NAME & ID TRT TODD 4141 AGENCY FHPL

DIVISION: DUI

NOTIFIED BY COMMO Y

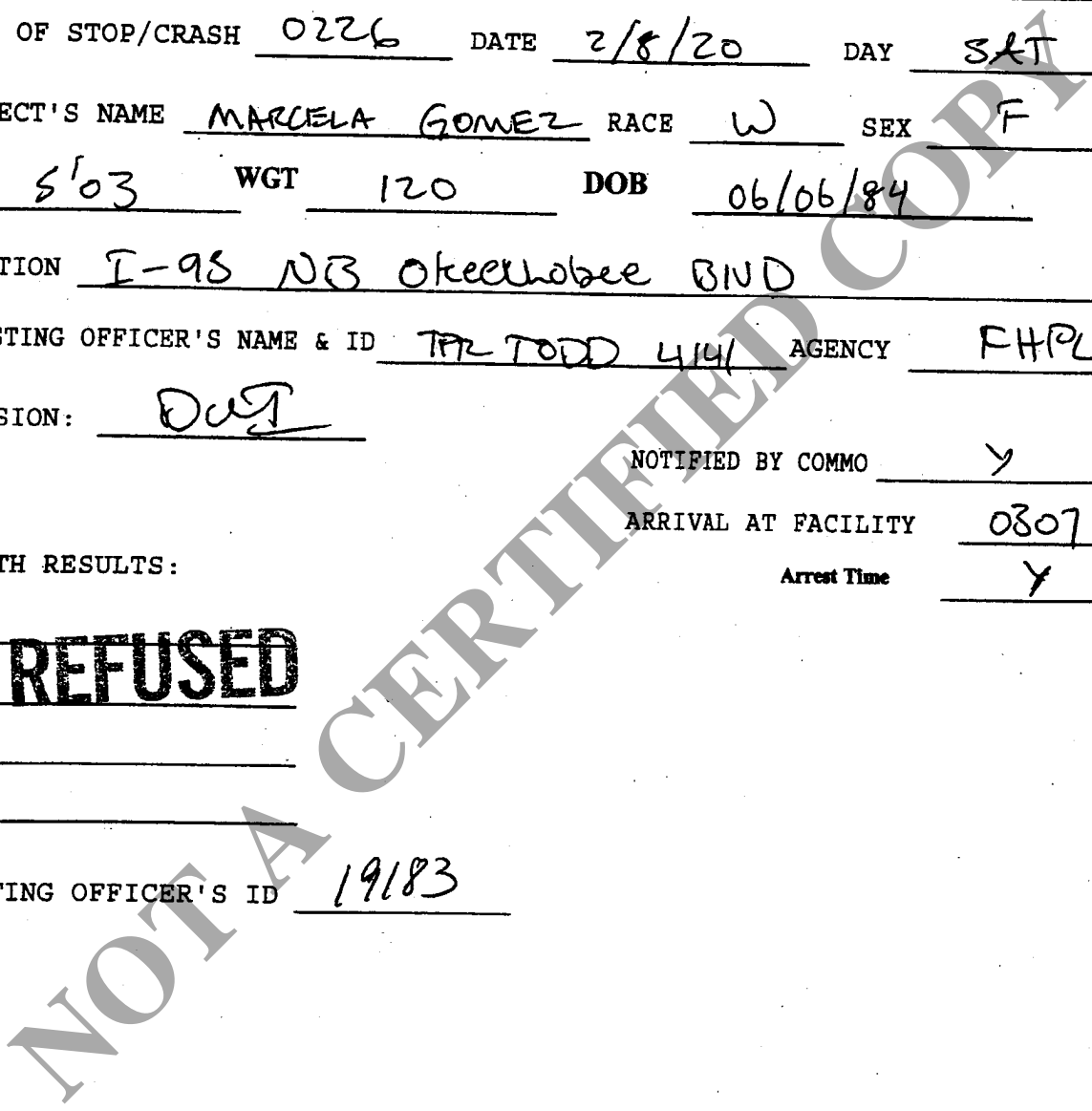
ARRIVAL AT FACILITY 0807

Arrest Time Y

BREATH RESULTS:

- 1. **REFUSED**
- 2. _____
- 3. _____
- 4. _____

TESTING OFFICER'S ID 19183



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

I, Z. TODD, a duly certified Law Enforcement Officer or Correctional Officer,
(Name of Officer reading Implied Consent Warning)

am a member of FLORIDA HIGHWAY PATROL, and I do swear
(Name of law enforcement agency)

or affirm that on or about the 8 day of FEB, 2020, at 0241 P.M. A.M.

DRIVER MARCELA GOMEZ
(Type or Print) FIRST NAME MIDDLE OR MAIDEN NAME LAST NAME

DL# G520540847061, state of FL, was placed under lawful arrest for
316.193(1)

the offense of D.U.I. - DRIVING UNDER THE INFLUENCE (MISD... by Z. TODD and
(Name of Arresting Officer)
issued Citation # A76VQAE

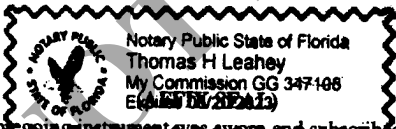
That on or about the 8 day of FEB, 2020, at 0840 P.M. A.M.
in PALM BEACH County,

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:



The foregoing instrument was sworn and subscribed before
me this 08th day of February, 2020,
by Trp. Z Todd #4141

who is personally known to me or who has produced
Known as identification.

Notary Public T. Leahy

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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FEB 08 2020

TESTING FACILITY TASK REPORT

AGENCY: FHP-L

SUBJECT: Gomez, Marcela

CASE NUMBER: 20-035602

DATE: 02/08/2020

VIDEO TAPE NUMBER: N/A

BEGINNING TIME: 03:30

ENDING TIME: 03:41

BREATH TESTS RESULTS: 1) R TIME 03:40 AM/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: T. Leahy #19183

MAINTENANCE TECHNICIAN: J Karlecke #6467

TESTING OFFICER'S OBSERVATIONS

SPEECH: slurred, thick

ATTITUDE: upset, crying

CLOTHING: blue jeans, white 1/2 shirt, gold sneakers

MEDICAL CONDITIONS: none

MEDICATIONS: none

OTHER: eyes glassy + bloodshot

odor of unknown alcoholic beverage on breath

COMMENTS: arrived at center A/O conducted 20 minute observation period at 03:07 hrs

A refused to perform breath test

A/O read I/c + A acknowledged she understood I/c

A refused to perform breath test

A/O read rights + A refused to listen or answer

A/O did not attempt Q + A

REFUSED

REFUSED

SUBJECT: Gomez, Marcela CASE NUMBER: _____

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: _____

SUBJECT: Gomez, Marcela CASE NUMBER: _____

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 Trp. Z Todd #4141 of the FHP-L

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



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"/>			
	<input type="checkbox"/>			
Other	<input type="checkbox"/>		Other:	
	<input type="checkbox"/>		Other:	

REVIEW COMPLETED BY

Booking Number: 2020004342	Date: 02/09/2020
	Specialist Name/ID: AM/31562

REC-11117
 FEB 09 2020