

Arrest Report

J-0504343 P-1912

19CT548

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

Report Date / Time	Report Number	Case Number/CAD Number	Reporting Officer Name
1/6/2019 10:21:24PM	FHP99ARR772477	FHPL19OFF001576 / LWRC19CAD003766	TPR. CASTILLO

Originating Agency ORI	Occurrence Date Time Range	Jurisdiction	Clearance
FL0509000	1/ 6/2019 8:50:48 PM -		

Location of Occurrence

Location Type	Location Description	Apt/Lot/Bldg
	SR-9 SB JNO PGA BLVD	

Street Number	Street
	I-95

County	City	State	Zip
PALM BEACH	PALM BEACH GARDENS	FL	33410

Defendant

First Name	Middle Name	Last Name	Suffix	Date Of Birth	Age	Race	Sex
PERCY	WILLIAM	FLEMING		9/8/1967	51	WHITE	MALE

SSN	MNI #	Place of Birth	Height	Weight	Hair	Eyes
[redacted]		DETROI, MI, USA	605	265	BLK	GRN

DL or ID Number	ID State	ID Type	Address Type
F455679673280	FL	E	

Street Number	Street	Apt/Lot/Bldg
940	LAKE HARNEY WOOD BLVD	

County	City	State	Zip	Phone Number	Extension
VOLUSIA	MIMS	FL	32754		

Location Description:

Arrest

Arrest Date/Time	Arrest Location Type	Arrest Location Description
1/6/2019 9:28:00PM	OTHER	SR-9 SB JNO PGA BLVD

Street Number	Street	Apt/Lot/Bldg	County

City	State	Zip

OR

FILED
JAN - 7 2019
SHARON R BOCK
Clerk & Comptroller

Charge(s)

Counts	Charge	General Offense Code	Bond Amount	No Bond
1	316.193.1		$ 0.00	☐

Charge Degree	Charge Level	Arrest Offense Code Description
N	MISDEMEANOR	DUI-UNLAW BLD ALCH

Charge Description: DUI ALCOHOL OR DRUGS

Received WB
JAN - 9 2019

JAN 7 AM 1:09

Probable Cause

On 1/6/2019 at approximately 8:50PM I was observing traffic while traveling south on Interstate 95 (State Road 9) just north of PGA Boulevard. I was traveling in lane 1 when I observed a white in color pickup truck pass me in lane 2 at a high rate of speed. I got behind the vehicle and paced the vehicle at 88mph. The white in color vehicle proceeded to change lanes into lane 3. I was at approximately one to two car's lengths of distance behind the white in color pickup truck. I activated my emergency lights and sirens and proceeded to conduct a traffic stop. The white in color pickup truck started changing lanes onto the right shoulder where it came to a complete stop. I later identified the white in color pickup truck by the attached North Carolina Tag: MR9363 by a FCIC/NCIC search. The North Carolina tag came back as a white 2016 Chevrolet Silverado, Vin:1GC1KUE89GF191784, registered to PHILLIPS & JORDAN, INC. I exited my vehicle and proceeded to make contact with the driver. I introduced myself and explained the driver the reason for the stop. The subject stated it was impossible I paced him at 88MPH because he had the cruise control activated at 80MPH and he also had a radar detector (attached to the fron windshield) that marked his speed at 80MPH. I asked the driver to provide me with his driver's permit, registration and

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insurance for the vehicle. The subject complied and gave me the documents. The subject identified himself with a Florida Driver's License: F-455-679-67-328-0 as PERCY, WILLIAM, FLEMING. Mr. Fleming stated he was coming from Mims, Florida and was heading to a hotel for work. Upon talking to Mr. Fleming inside his vehicle I observed the skin of his face to be flush red, his speech was slurred at times, his eyes were watery/ glassy. I also smelled a strong odor of an unknown alcoholic beverage coming from inside Mr. Fleming's vehicle. I asked Mr. Fleming if he had anything to drink. Mr. Fleming stated the reason there was a strong smell of beer was because his granddaughter had spill a can of beer inside his truck. Mr. Fleming reached behind the front passenger seat and showed me a can of beer with beer still inside. Mr. Fleming stated he had placed the beer can inside his work boots. Mr. Fleming handed me the can and I was able to feel the can cold, like if it was recently open. Mr. Fleming stated that he had a beer at approximately 2:00PM. I went back to my vehicle and proceeded to write two citations. After, I went back and made contact with Mr. Fleming and asked him to step out of the vehicle. Mr. Fleming had trouble walking, he did not limp but was walking with difficulty, he had difficulty maintaining his balance as well. When I explained the traffic citations I was giving him I smelled a strong odor of an unknown alcoholic beverage coming from Mr. Fleming's mouth area. At that point I concluded that Mr. Fleming did ingest alcohol. I told Mr. Fleming that that based on my observations I was going to ask him to perform field sobriety exercises to rule out impairment, I told Mr. Fleming that if he performed the exercise well he was going to continued driving. Mr. Fleming stated that he was going to perform the exercises.

Standardized Field Sobriety Exercises (SFSE):

The area for the following roadside exercises was a level hard surface and was free of debris. The weather was clear. Lighting was well lit and was illuminated with surrounding ambient light and vehicle my lights.

Horizontal Gaze Nystagmus:

I advised the subject to stand straight with his feet together and arms down by his side. The subject had glasses on, I told the subject to take them off for the exercise. For the exercise I used my issued red in color pen light. I asked the subject if he could see the red pen light, he stated yes. The subject was asked about any current medical conditions, he stated that he di not suffered from any medical conditions. I advised the subject to follow the red pen light with his eyes, and to not move his head. I asked subject if he understood the instructions I gave to him. He stated yes. I asked if he had any questions he statec no.

The following was observed during Horizontal Gaze Nystagmus:

The subject did have resting Nystagmus and dilated pupils.

- YES LT EYE-LACK OF SMOOTH PURSUIT
- YES RT EYE-LACK OF SMOOTH PURSUIT
- NO LT EYE-DISTINCT & SUSTAINED NYSTAGMUS AT MAX. DEVIATION
- YES RT EYE-DISTINCT & SUSTAINED NYSTAGMUS AT MAX. DEVIATION
- NO LT- EYE-ONSET OF NYSTAGMUS PRIOR TO 45 DEGREES
- YES RT- EYE-ONSET OF NYSTAGMUS PRIOR TO 45 DEGREES

While standing within close proximity of the subject, I could detect a strong and distinct odor of an unknown alcoholic beverage, and his eyes were watery. Subject was swaying.

The following was observed during Vertical Gaze Nystagmus:

-Nothing outstanding observed.

Walk and Turn Exercise:

The area for the following roadside exercises was level and free of debris. We used an imaginary line the subject advice he was ok using it. The line/space was illuminated with surrounding light and vehicle lights.

(Starting Position): I advised the subject to place his left foot on the white in color line and his right foot directly in front of it , touching heel to toe. I advised the subject to keep his arms down by his side and to stay in that position until I advise him

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to begin the exercise.
(Instructional Phase): This exercise was first explained to the subject then was demonstrated by me. Subject advised that he would be able to perform the exercise. Subject advised that he had no injuries that would affect the exercise, except for a "blown" left knee and arthritis on the left elbow. The subject stated that even with the "blown" knee he wanted to try to perform the exercise. Subject advised me that he understood instructions and did not have any questions.
- The following was observed during the instructional phase of the exercise:
The subject was unable to maintain the starting position, the subject was wearing sandals and decided to take them off, after noticing it was not a soft surface the subject put the sandals back on. The subject lost balance multiple times and was attempting to use his arms for balance. I had to explain the instructions multiple times.

- The following was observed during the walking phase of the exercise:
The subject was not able to maintain his balance, the subject was using his arms for balance, the subject did not turn like instructed.
Subject displayed /8 Clues specific to the Walk and Turn Exercise.
<u>One Leg Stand Exercise</u>:
The area for the following roadside exercises was level and free of debris.
(Starting Position): I instructed the subject to stand with his feet together and keep his arms down by his side. I instructed the subject to stay in that position until I tell him to start the exercise.
(Instructional Phase): This exercise was first explained to the subject then was demonstrated by me. Subject advised that he will be able to perform the exercise. Subject advised me that they had no injuries that would affect the exercise except for a "blown" left knee and arthritis on his left elbow. The subject advice that even with the knee injury he was able to perform the exercises. Subject advised that he understood instructions and did not have any questions.
-The following was observed while the subject was in the starting position:
The subject was closing his eyes like if he was falling asleep, the subject was swaying.

- The following was observed during the exercise:
Subject was swaying while balancing. Subject placed foot down prior to completing the exercise multiple times. Subject did not look at his foot as instructed on his first try. Subject raised his arms from his body (above six inches) to attempt to maintain balance. Subject's speech was slurred at times.
Subject displayed /4 clues specific to the one leg stand.
Finger to nose:
The subject missed the target multiple times, the subject swayed when he closed his eyes and placed his head back.
Based upon my observations and the totality of circumstances, Mr. Percy William Fleming was placed under arrest for DUI pursuant to Florida Statute 316.193.1 at 9:28PM. Mr. Fleming placed in my patrol vehicle, and transported to the Palm Beach County Jail. While in transport to the Palm Beach County Jail there was an obvious strong odor of an unknown alcoholic beverage within my vehicle that was not present prior to placing the Mr. Fleming in the vehicle.
The defendant arrived at the Palm Beach County Jail at 10:12PM. I then conduct a 20min observation of the subject. The subject did not have any foreign objects in his mouth prior to the 20 minute observation. Throughout the observation the subject did not take anything by mouth or regurgitated. After the 20-minute observation, the defendant was then given the opportunity to provide a sample of his breath which he consented to provide (On Video). The defendant's first breath was given at 10:37 PM and resulted in a 0.029 The defendant's second breath was given at 10:42PM and resulted in a 0.023 The subject attempted to give the breath sample multiple times, the subject seemed to be sucking air out from the tube and at time obstructing the opening with his tongue. (On camera). The subject stated on scene that he did drink a beer, when asked at the breath test room he stated that he did not drink anything (see Q&A).

Mr. Fleming was also issued a uniform traffic citation for Speeding under FL Statute: 316.187, Open container under FL

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FL0509000	1/ 6/2019 8:50:48 PM -		

Statute: 316.613(1)(a).

Video of the traffic stop, roadsides and transport are available through the FHP custodian. The above incident did occur in Palm Beach County, Florida.

Jail Booking Facility

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

Booking Facility Location	Booking Number
3228 GUN CLUB ROAD WEST PALM BEACH, FLORIDA 33406	

Booking Comments

Court

Court County	Court Location
PALM BEACH	200 WEST ATLANTIC AVE. DELRAY BEACH, FL 33444

Court	Court Phone	Court Appearance Date / Time	Court Fine
PALM BEACH SOUTH COUNTY COURTHOUSE	561-274-1530	2/4/2019 8:30AM	

Comments

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	Officer Rank	Officer ID No
TPR. CASTILLO	TROOPER	4169

Officer Agency
FLORIDA HIGHWAY PATROL

Officer Signature: Castillo

Sworn and subscribed before me, the undersigned authority
This the 6th day of January, 2019
DEPUTY OF THE COURT, NOTARY OR LAW ENFORCEMENT OFFICER

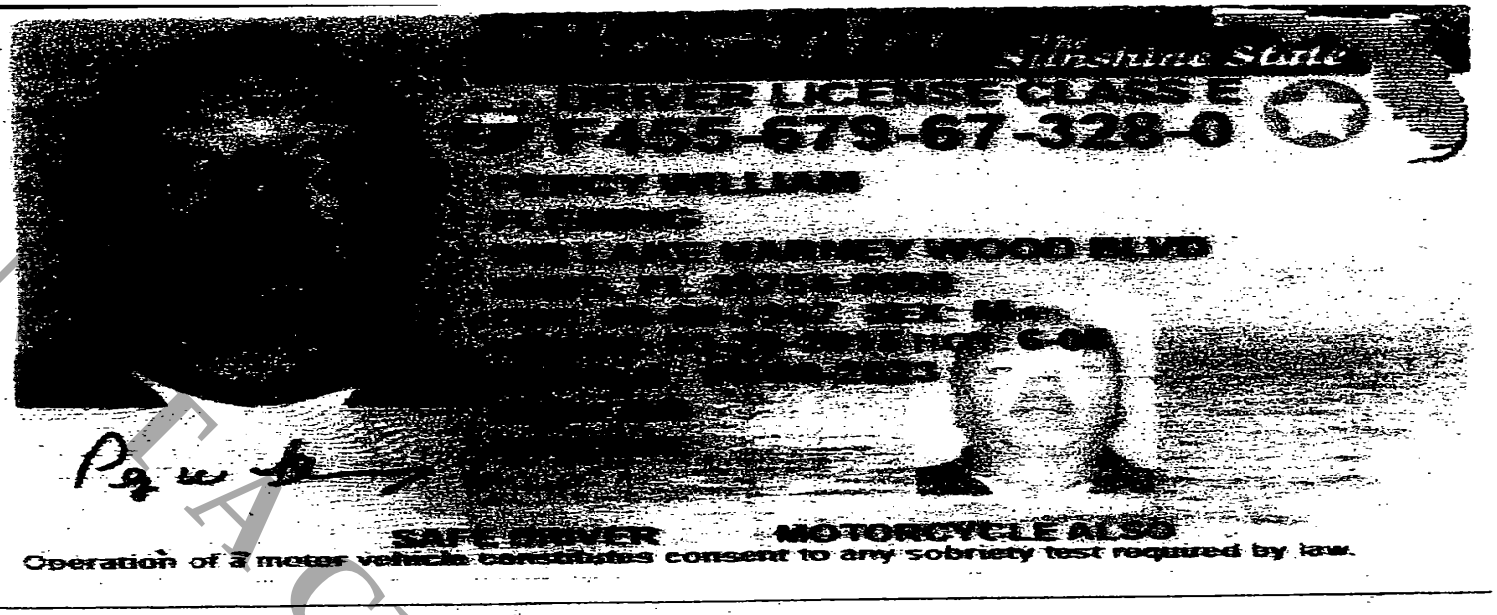
BEVERLY SUE OWEN
MY COMMISSION # GG 188278
EXPIRES: May 30, 2022
Bonded Thru Notary Public Underwriters

Approving Supervisor

Officer Name	Officer Rank	Officer ID No	Officer Agency

Officer Signature

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FLORIDA DEPARTMENT OF LAW ENFORCEMENT
ALCOHOL TESTING PROGRAM
BREATH ALCOHOL TEST AFFIDAVIT

Instrument Type: Intoxilyzer 8000
Instrument Registered To: PALM BEACH CO SO
Instrument Serial Number: 80-006029 Software: 8100.27
Date of Test: 01/06/2019

Date of Last Agency Inspection: 12/14/2018
Observation Period Began: 22:12
Subject's Name: PERCY W FLEMING DOB: 09/08/1967 Sex: M

The subject was observed for at least twenty-minutes prior to the administration of the breath test to ensure that the subject did not take anything orally and did not regurgitate.

Results:

Test	g/210L	Time
Diagnostics Check	OK	22:35
Air Blank	0.000	22:36
Control Test	0.081	22:36
Air Blank	0.000	22:36
Subject Sample #1	0.029	22:37
Air Blank	0.000	22:38
Air Blank	0.000	22:39
Subject Sample #2	0.023	22:42
Air Blank	0.000	22:43
Control Test	0.080	22:43
Air Blank	0.000	22:44
Diagnostics Check	OK	22:44

Cylinder Lot: 13518080A5
Exp: 08/05/2020

State of Florida, County of Palm Beach

Personally appeared before me the undersigned authority, who (✓) is personally known to me or (__) produced _____ as identification, and who after being placed under oath, states:

I SUE OWEN, hold a valid Breath Test Operator permit issued by the Florida Department of Law Enforcement, I administered the above breath test to the subject named above in accordance with Chapter 11D-8, Florida Administrative Code, and this form is a true and accurate report of that breath test.

Breath Test Operator: _____ Date: 01/06/19
Signature

Sworn to (or affirmed) before me this 6th day of January 2019

_____ Dr C. Castillo
Signature of Notary Public-State of Florida Printed Name of Notary Public-State of Florida

Note: Pursuant to section 117.10, Florida Statutes, law enforcement officers, correctional officers, traffic accident investigation officers and traffic infraction enforcement officers are notaries public when engaged in the performance of official duties. In accordance with section 316.1934(5), F.S., this completed form is admissible without further authentication and is presumptive proof of the results herein. To be used in accordance with Section 316.1934(5), F.S., and in administrative proceedings pursuant to 322.2615, F.S.

FDLE/ATP FORM 38 - MARCH 2004, Ref. 11D-8.007

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SUBJECT: Fleming, Peray William CASE NUMBER: FHPL190FF001576

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 _____ of the _____.

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)_____

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

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TESTING FACILITY TASK REPORT

AGENCY: FHP-L

SUBJECT: Fleming, Percy William CASE NUMBER: 19-023046

DATE: 01/06/19 ~~VIDEO TAPE NUMBER:~~ N/A

BEGINNING TIME: 2233 ENDING TIME: 2253

BREATH TESTS RESULTS: 1) .029 TIME 2237 ~~A.M.~~ (P.M.) 2) .023 TIME 2242 ~~A.M.~~ (P.M.)

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

BREATH OPERATOR: S. Owen #3184

MAINTENANCE TECHNICIAN: J. Karlecke #6467

TESTING OFFICER'S OBSERVATIONS

SPEECH:

ATTITUDE: quiet, cooperative

CLOTHING: Sandals, camouflage shorts tan top

MEDICAL CONDITIONS: left knee blown out, arthritis left elbow

MEDICATIONS: None

OTHER: Δ Couldn't see w/o glasses Hard of Hearing

COMMENTS: A/O E/D arrived at 2242 hrs
A/O observed 20 minutes
A/O requested breath test Δ agreed
1st Time Δ sucked in during breath
Blew sporadically but instrument
documented 2 breaths. Tech
explained results. A/O requested
urine, Δ agreed, advised c/w
Δ answered Q&A Δ said he has not
been drinking. Couldn't feel effects,
urine drawn at 2255 hrs

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SUBJECT: Fleming, Percy William CASE NUMBER: FHPL90FF001526

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? yes

WHERE WERE YOU GOING? hotel for work

WHAT STREET OR HIGHWAY WERE YOU ON? 95

DIRECTION OF TRAVEL? S WHERE DID YOU START? Miami

WHAT TIME DID YOU START? 5:00 pm WHAT TIME IS IT NOW? I dont know.

WHAT IS TODAY'S DATE? 1/6/2019 WHAT DAY OF THE WEEK IS IT? Sunday.

WHAT COUNTY AND CITY ARE YOU IN NOW? West Palm Beach.

WHEN DID YOU LAST EAT? 4:30 pm WHAT DID YOU EAT? Steak.

WHAT HAVE YOU BEEN DOING FOR THE LAST THREE HOURS? Sobriety test / police station.

HOW MUCH DO YOU WEIGH? 265-260lbs HAVE YOU BEEN DRINKING? no 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? no ARE YOU UNDER THE INFLUENCE? no

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

WHAT? _____ WHERE? _____ WHEN? _____

WHAT LINE OF WORK ARE YOU IN? ground utilities super intendent WHEN DID YOU LAST WORK? Friday.

DO YOU HAVE ANY PHYSICAL DEFECTS OR INJURIES? yes WHAT? Left knee / Left elbow arthritis.

ARE YOU SICK OR INJURED? no WHAT'S WRONG? _____

DO YOU LIMP? no DID YOU RECEIVE A BUMP ON THE HEAD RECENTLY? no

WERE YOU IN AN ACCIDENT TODAY? no

HAVE YOU TAKEN ANY DRUGS OR SMOKED ANY MARIJUANA TODAY? no WHEN? _____

HAVE YOU SEEN A DOCTOR OR DENTIST TODAY? no WHO? _____ WHY? _____

ARE YOU TAKING ANY PRESCRIPTION MEDICINES? no WHAT? _____ WHEN? _____

DO YOU HAVE:
- EPILEPSY? no
- GLASS EYE? no
- FALSE TEETH? yes
- EAR INFECTION? yes.
- INNER EAR TROUBLE? yes
- DIABETES? no

DO YOU HAVE ANY PROBLEMS WITH YOUR EYES THAT ARE NOT CORRECTED BY GLASSES? no

DO YOU TAKE INSULIN? no IF SO, WHEN WAS YOUR LAST INJECTION? _____

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

INTERVIEWER: Tpr. Carlos Castillo 4169

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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	☐	119.071(2)(d)	Surveillance techniques, procedures and personnel; inventory of law enforcement resources, policies or plans pertaining to mobilization deployment or tactical operations.	
	☐	943.053, 943.0525	NCIC/FCIC/FBI and in-state FDLE/DOC.	
	☐	119.071(4)(c)	Undercover personnel.	
	☐	119.071(2)(f)	Confidential informants (CIs).	
	☐	119.071(2)(e)	Confession.	
Public Info. Exemptions	☐	985.04(1)	Juvenile offender records.	
	☐	119.071(h)(i)	Assets of a crime victim.	
	☐	395.3025(7)(a), 456.057(7)(a)	Medical information.	
	☐	394.4615(7)	Mental health information.	
	☐	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)	☒	(iii) 119.0714(1)(i)-(j), (2)(a)-(e)	Social Security, bank account, charge, debit, and credit card numbers.	2
	☐	(viii) 394.4615(7)	Clinical records under the Baker Act.	
	☐	(xii) 741.30(3)(b)	The victim's address in a domestic violence action on petitioner's request.	
	☐	(xiii) 119.071(2)(h), 119.0714(1)(h)	Protected information regarding victims of child abuse or sexual offenses.	
	☐			
	☐			
	☐			
	☐			
	☐			
Other	☐	539.001 FS	Other: All records relating to pawnbroker transactions.	
	☐	119.0712(2)	Other: Personal information contained within a motor vehicle record	

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REVIEW COMPLETED BY

Booking Number: 2019000699	**Date:** 01/07/2019
	Specialist Name/ID: howardt/7185