

0510973

Arrest Report

P# 1194

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

NH

Report Date / Time 9/15/2019 01:20 AM	Report Number FHP99ARR804678	Case Number/Cad Number FHPL19OFF061020 / LWRC19CAD168762	Reporting Officer Name SAYIH R. A.
Originating Agency ORI	Occur Date Time Range 09/15/2019 00:48:47 - 09/15/2019 03:15:00	Jurisdiction	Clearance

Location of Occurrence

County PALM BEACH	Location Type OTHER	Location Description
Street Number SB SR 9 NOF SR 804 R/S	Street	Apt/Lot/Bldg BOYNTON BEACH
City	State FL	Zip Code

Defendant

First Name THU	Middle Name VAN	Last Name NGUYEN	Suffix	Race A	Sex MALE	Height 503	Weight 150	Hair BLK	Eyes BRO
MNI #	SSN	Date of Birth 07/20/1977	Age 42	Place of Birth VIETNAM FF VIETNAM	Drivers License or other ID N250818772600	State FL	ID Type E	Address * RESIDENCE / 73 DEER CREEK RD APT 1104 , DEERFIELD BEACH, FL 33442 /	

Arrest

Arrest Date/Time 9/15/2019 1:13:56 AM	Arrest Location Type OTHER	Arrest Location Description
Street Number SB SR 9 NOF SR 804 R/S	Street	Apt/Lot/Bldg PALM BEACH
City BOYNTON BEACH	State FL	Zip Code

Charge : S

Counts 1	Charge 316.193.1	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 Sunday, September 15th, 2019 at approximately 12:48 AM, I Trooper Sayih #1273 was on routine service patrol in Palm Beach County, FL. I was traveling southbound on Interstate 95 (State Road 9) north of Gateway Blvd when I was advised by the Lake Worth Regional Communications Center (LWRCC) of a BOLO (Be On the Look Out). The BOLO was described to be a white in color pickup

e034shw

SCANNED

SEP 17 2019

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truck with stickers on the left window swerving all over the road, last seen southbound on Interstate 95 (State Road 9) south of 10th Ave. I advised the LWRCC that I would be stationary on the left shoulder just north of Gateway Blvd to try and locate the vehicle if it continues to travel southbound. As I observed the southbound traffic, I then located a white in color pickup truck in the center lane, unable to maintain a single lane. As I began to overtake the vehicle I confirmed the stickers on the left window and driving pattern with this white in color pickup truck possibly being the one that was BOLO's earlier. The white in color pickup truck was bearing a Florida tag of GVHU54 and continued to swerve in its travel lane. The white in color pickup truck switched lanes to the right and then again back to the left. As the white in color pickup truck began to get closer to the surrounding traffic I then activated my emergency lights and siren in an attempt to conduct a welfare check on the driver. The white in color pickup truck continued to travel southbound with no reaction to my emergency lights sirens. The white in color vehicle eventually pulled off to the right paved emergency shoulder just north of Boynton Beach Blvd (State Road 804). As I approached the white in color pickup truck on its passenger side I observed a white male in the driver seat who was later identified through his Florida drivers license to be, Thu Van Nguyen 08/18/1987. My initial observation of Mr. Nguyen was him not wearing a shirt, his eyes were bloodshot and glossy and he had a dazed and confused stare upon him. Mr. Nguyen was asked to remove the keys out of the ignition and to keep his hands on the steering wheel due to him putting his hand in between his legs while it appeared he was moving something around. Mr. Nguyen was advised of the reasoning of why he was stopped and was questioned on if everything was okay with him. Mr. Nguyen began to speak and was not very fluent in English, which he later on ended up explaining to me. But as Mr. Nguyen was questioned on if everything was okay and if he had any medical conditions he advised me that he was okay and that he did not have anything wrong with him. Mr. Nguyen was asked to provide me his license registration and insurance to which he then proceeded to obtain it for me. Mr. Nguyen pulled his wallet out of his rear right pocket and began to fumble around with it attempting to get out his license. Mr. Nguyen then proceeded to go into his glove compartment and instead of grabbing the registration and insurance that I could see from the passenger window, he kept touching a stack of cards and running his finger through it. I had to ask Mr. Nguyen what he was doing and he advised me that he was getting his insurance. Mr. Nguyen was then asked if he had been drinking and he advised me that he only had one beer. Even tho Mr. Nguyen was not fluent in English, his speech was very slow, thick and slurred. Mr. Nguyen was asked to step out of the vehicle where I then came into contact with him face to face on the side of the roadway. As Mr. Nguyen was explained the reasoning of why he was asked to step out of the vehicle the language barrier began to be a issue. Mr. Nguyen advised me he spoke Vietnamese resulting in me attempting to have the LWRCC locate a Vietnamese speaking officer to assist in translation. The LWRCC advise me that they were unable to locate anyone who spoke Vietnamese to which I then carried on with my investigation. To the best of my ability I advised Mr. Nguyen the reasoning of why he was asked to step out the vehicle which was due to me having reason to believe he was under the influence of alcohol and/or a controlled substance. Throughout the time I was speaking with Mr. Nguyen outside of the vehicle, I could smell a strong odor commonly associated with the smell of an unknown alcoholic beverage emitting from his breath as he spoke to me. Mr. Nguyen was asked if he would perform a series of roadside exercises but due to the language barrier he was unable to understand my request. Mr. Nguyen was now asked if he would allow me to check his eyes, resulting in him understanding and

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giving me consent to do so.

Horizontal Gaze Nystagmus:

- LT EYE-LACK OF SMOOTH PURSUIT
- RT EYE-LACK OF SMOOTH PURSUIT
- LT EYE-DISTINCT & SUSTAINED NYSTAGMUS AT MAX. DEVIATION
- 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

Based off my observations and Due to the totalitty of the circumstances, Mr. Nguyen was then placed under arrest for DUI pursuant to Florida Statue 316.193.1 at 01:13 AM. Mr. Nguyen was then searched and placed in my patrol vehicle where he was then transported to the Palm Beach County Jail's Breath alcohol testing facility (BAT). Inside the Palm Beach County Jail's breath alcohol testing facility (BAT) Mr. Nguyen began a 20 minute observation prior to being provided an opportunity to provide a breath sample. After Mr. Nguyen's 20 minute observation, he was given an opportunity to provide a breath sample in which refused to provide. Mr. Nguyen was read implied consent and again refused to provide a sample of his breath resulting in a refusal at approximately 02:10 AM.

Video of the traffic stop roadside exercises and transport to the Palm Beach County Jail can be obtained through the FHP custodian

Video of the Palm Beach County Jail's BAT facility can be obtained through the Palm Beach County

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

3228 GUN CLUB ROAD WEST PALM BEACH, FLORIDA 33406

Booking Number

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 Appereance Date / Time 10/15/2019 08:30 AM	Court Fine
Comments			

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Officer Name Rank / ID #	Involvement On Report / Reporting Role	Officer Agency Org/Unit
SAYIH R. A. TROOPER 3822	REPORTING OFFICER	FLORIDA HIGHWAY PATROL FHPL\LWRC\PALM BEACH\BROW LN TO SR804

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 SAYIH R. A.	Office Rank TROOPER	Officer ID No 3822	Sworn and subscribed before me, the undersigned authority This the <u>15</u> day of <u>Sept</u> , 2019
Officer Agency FLORIDA HIGHWAY PATROL	Officer Signature 		DEPUTY OF THE COURT, NOTARY OR LAW ENFORCEMENT 



NOT A CERTIFIED COPY



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

PBSO CASE # 19-115264

AGENCY CASE# FHPL19OFF061020

AGENCY ZONE 6-51

CRASH CASE # N/A

TIME OF STOP/CRASH 12:48 AM DATE 09/15/2019 DAY SUNDAY

SUBJECT'S NAME THU VAN NGUYEN RACE W SEX M

HGT 5'03" WGT 145 DOB 08/18/1987

LOCATION SB SR 9 NOF BOYNTON BEACH BLVD

ARRESTING OFFICER'S NAME & ID TPR. SAYIH #3822 AGENCY FLORIDA HIGHWAY PATROL

DIVISION: LAKE WORTH

NOTIFIED BY COMMO YES

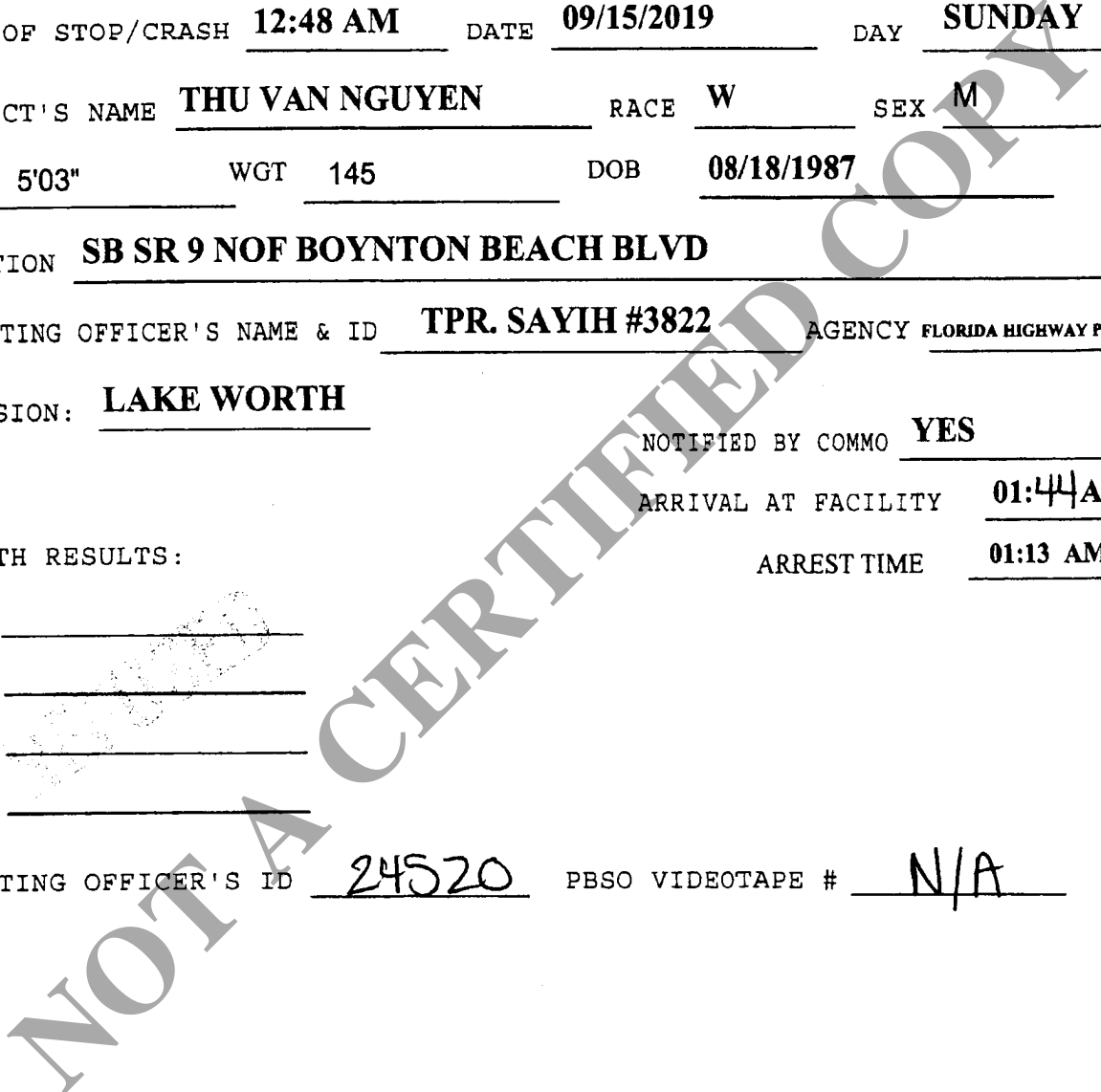
ARRIVAL AT FACILITY 01:44AM

BREATH RESULTS:

ARREST TIME 01:13 AM

1. _____
2. _____
3. _____
4. _____

TESTING OFFICER'S ID 24520 PBSO VIDEOTAPE # N/A



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

I, TPR. SAYIH #3822, 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)

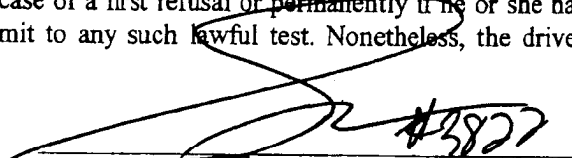
or affirm that on or about the 15TH day of SEPT, 20 19, at 0113 P.M. A.M.

DRIVER THU VAN NGUYEN,
(Type or Print) FIRST NAME MIDDLE OR MAIDEN NAME LAST NAME

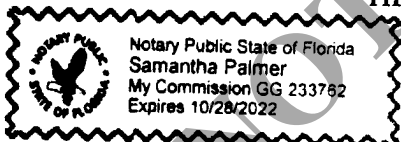
DL# N250818772600, state of FLORIDA, was placed under lawful arrest for
the offense of DUI by TPR. SAYIH #3822 and
issued Citation # A76SNAE
(Name of Arresting Officer)

That on or about the 15TH day of SEPT, 20 19, at 0210 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

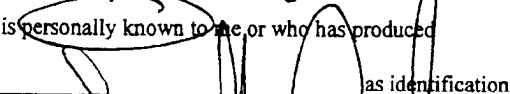
THE AFFIDAVIT MUST BE NOTARIZED OR ATTESTED TO (F.S. 117.10)



(AFFIX SEAL)

The foregoing instrument was sworn and subscribed before
me this 15 day of Sept, 20 19,

by Trooper Sayih,

who is personally known to me, or who has produced

as identification

Notary Public

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.

TESTING FACILITY TASK REPORT

AGENCY: FHP/SAYIH

SUBJECT: NGUYEN, THU VAN

CASE NUMBER: 19-115264

DATE: Sep 15, 2019

VIDEO DVD NUMBER: N/A

BEGINNING TIME: 205

ENDING TIME: 210

BREATH TESTS RESULTS: 1) R TIME 210 A.M. P.M. 2) XX TIME XX A.M. P.M.
3) XX TIME XX A.M. P.M. 4) XX TIME XX A.M. P.M.

BREATH OPERATOR: S. PALMER #24520

MAINTENANCE TECHNICIAN: J Karlecke #6467

TESTING OFFICER'S OBSERVATIONS

SPEECH: ACCENT

ATTITUDE: CALM, QUIET

CLOTHING: NO SHIRT, BLUE JEANS, BLK SHOES

MEDICAL CONDITIONS: NONE

MEDICATIONS: NONE

OTHER:

EYES: GLASSY AND BLOODSHOT,

COMMENTS:

ARRESTING OFFICER CONDUCTED THE 20 MINUTE OBSERVATION BEGINNING AT 0144
SUBJECT REFUSED TO TAKE BREATH TEST
A/O READ I/C
SUBJECT READ I/C
AND AGAIN REFUSED TO TAKE BREATH TEST
A/O CALLED REFUSAL @ 0210
A/O DID NOT READ RIGHTS OR CONDUCT Q&A

SUBJECT: Nguyen, Thu Van CASE NUMBER: FH-PL190FF061020

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: Trooper Sayitt # 3822

SUBJECT: Nguyen, Thu Van CASE NUMBER: FHPL19OFF061020

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 Trooper Sayitt # 3822 of the FHP

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) Not Read



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

REVIEW COMPLETED BY

Booking Number: 2019030099	Date: 09/16/2019
	Specialist Name/ID: AM/31562