

CFA SRIC

February 22, 2012
2:00p.m.

Mission Inn and Resort

10400 County Road 48
Howey-in-the-Hills, FL 34737

Agenda Items

| Topic | Presenter |
|--|------------------|
| 2.09 – Request for interpretation: Non-sworn uniforms | Halstead |
| 3.03M – Annual report | Staff |
| 4.05M – Use of lethal and less lethal weapons | Rhinehart |
| 4.12M – Request for definition: Analysis | Halstead |
| 14.08M – Field training program applicability interpretation | Staff |
| 14.14M – New standard: Training program for new supervisors | Staff |
| 16.05 – Contesting evaluation reports | Staff |
| 18.01 – Case file maintenance | Staff |
| 30.02M – Maintenance of fire suppression equipment | Welch |
| 34.11M – Traffic crash analysis | Staff |
| New definition: Enforcement analysis | Staff |

Inspector General Standards

| | |
|-----------------------------|-------|
| 1.08M – Annual report | Staff |
| 8.01M – Conclusions of fact | Staff |



Commission for Florida Law Enforcement Accreditation, Inc.

STANDARDS REVISION FORM

Please provide standard number, and place an X in the appropriate box.

Standard Number 2.09

| | | | | | |
|--------------|--|----------|-------------------------------------|----------|--|
| New Standard | | Revision | <input checked="" type="checkbox"/> | Deletion | |
|--------------|--|----------|-------------------------------------|----------|--|

Proposal (State the standard exactly as you believe it should appear in the manual).

Clarification is requested in regards to what "clearly distinguished" means in regards to uniforms for sworn and non-sworn.

Rationale for revision.

There is a need for uniformity in how this standard is applied. UNFPD uniforms are very similar to JSOPD uniforms. Their non-sworn Corrections Officers uniforms are distinguished by the wearing of a rocker on the sleeve and a corrections badge, the same as how our Communications Officers uniforms are distinguished. We had to 20% the standard, they did not.

Name Kathleen Halstead Date 09/22/11

Agency UNFPD

Address 1 UNF Drive

City, State, ZIP Jacksonville, FL 32224

Phone 904-620-2382 Email khalstea@unf.edu

CEO Approval _____

All proposed revisions will be submitted to the Standards Review and Interpretations Committee via CFA for consideration. CEO approval is required for every submission to be considered by the SRIC.

Forward to: CFA/SRIC, P.O. Box 1489 Tallahassee, FL 32302 Phone (800) 558-0218

| | | |
|----------|-------------|-----------------------|
| Approved | Disapproved | Approved with changes |
|----------|-------------|-----------------------|



Commission for Florida Law Enforcement Accreditation, Inc.

STANDARDS REVISION FORM

Please provide standard number, and place an X in the appropriate box.

Standard Number 3.03M

| | | | | | |
|--------------|--|----------|---|----------|--|
| New Standard | | Revision | X | Deletion | |
|--------------|--|----------|---|----------|--|

| | | | |
|---|--------------------|-----------------------|--|
| Proposal (State the standard exactly as you believe it should appear in the manual). | | | |
| Standard | | Review Methods | Assessor Guidelines |
| 3.03M The agency submits an annual report to the Commission to report compliance efforts with accreditation standards. | | | |
| Proof of Compliance | Qty Initial | Qty Reaccred | Accreditation Manager Notes |
| Annual reports. | N/A | 3YD | An annual report is required for the third year only if the agency has been granted an extension to their reaccreditation agreement. The report may be filed electronically. |

| |
|--|
| Rationale for revision. |
| This standard does not rise to the level of life, health or safety. In order for agencies to maintain their compliance with time sensitive standards this standard should be followed but not require mandatory reporting to the Commission. |

Name CFA Staff Date January 3, 2012

| | | |
|----------------------|-------------------------|-----------------------------------|
| Approved <u> </u> | Disapproved <u> </u> | Approved with changes <u> </u> |
|----------------------|-------------------------|-----------------------------------|



Commission for Florida Law Enforcement Accreditation, Inc.

STANDARDS REVISION FORM

Please provide standard number, and place an X in the appropriate box.

Standard Number 4.05

| | | | | | |
|--------------|--|----------|--|----------|--|
| New Standard | | Revision | | Deletion | |
|--------------|--|----------|--|----------|--|

Proposal (State the standard exactly as you believe it should appear in the manual).

4.05 M A directive addresses the use of lethal and less lethal weapons to include:

- A. On duty and agency authorized off duty use; and
- B. Proven proficiency prior to carrying.

Rationale for revision.

Chapter 2011-109 became effective October 1, 2011 and declared all ordinances, regulations, or rules that violate F.S.S. 790.33 invalid. The requirement to prove proficiency prior to carrying a weapon off duty violates a sworn members' constitutional right to carry any concealed weapon off duty they wish to carry. By changing to agency authorized off duty use, the agency can require proven proficiency for agency weapons and weapons that may be used for law enforcement functions.

Name David A. Rhinehart Date 10-5-2011

Agency Osceola County Sheriff's Office

Address 2601 E. Irlo Bronson Memorial Highway

City Kissimmee State Fl ZIP 34744

Phone 407-348-1103 Email drhi@osceola.org

CEO Approval 

All proposed revisions will be submitted to the Standards Review and Interpretations Committee via CFA for consideration. CEO approval is required for every submission to be considered by the SRIC.

Forward to: CFA/SRIC, P.O. Box 1489 Tallahassee, FL 32302 Phone (800) 558-0218

| | | | | | |
|----------|--|-------------|--|-----------------------|--|
| Approved | | Disapproved | | Approved with changes | |
|----------|--|-------------|--|-----------------------|--|

Select Year: 2011

The 2011 Florida Statutes

Title XLVI
CRIMES

Chapter 790
WEAPONS AND FIREARMS

[View Entire Chapter](#)

790.33 Field of regulation of firearms and ammunition preempted.—

(1) **PREEMPTION.**—Except as expressly provided by the State Constitution or general law, the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or any administrative regulations or rules adopted by local or state government relating thereto. Any such existing ordinances, rules, or regulations are hereby declared null and void.

(2) **POLICY AND INTENT.**—

(a) It is the intent of this section to provide uniform firearms laws in the state; to declare all ordinances and regulations null and void which have been enacted by any jurisdictions other than state and federal, which regulate firearms, ammunition, or components thereof; to prohibit the enactment of any future ordinances or regulations relating to firearms, ammunition, or components thereof unless specifically authorized by this section or general law; and to require local jurisdictions to enforce state firearms laws.

(b) It is further the intent of this section to deter and prevent the violation of this section and the violation of rights protected under the constitution and laws of this state related to firearms, ammunition, or components thereof, by the abuse of official authority that occurs when enactments are passed in violation of state law or under color of local or state authority.

(3) **PROHIBITIONS; PENALTIES.**—

(a) Any person, county, agency, municipality, district, or other entity that violates the Legislature's occupation of the whole field of regulation of firearms and ammunition, as declared in subsection (1), by enacting or causing to be enforced any local ordinance or administrative rule or regulation impinging upon such exclusive occupation of the field shall be liable as set forth herein.

(b) If any county, city, town, or other local government violates this section, the court shall declare the improper ordinance, regulation, or rule invalid and issue a permanent injunction against the local government prohibiting it from enforcing such ordinance, regulation, or rule. It is no defense that in enacting the ordinance, regulation, or rule the local government was acting in good faith or upon advice of counsel.

(c) If the court determines that a violation was knowing and willful, the court shall assess a civil fine of up to \$5,000 against the elected or appointed local government official or officials or administrative agency head under whose jurisdiction the violation occurred.

(d) Except as required by applicable law, public funds may not be used to defend or reimburse the unlawful conduct of any person found to have knowingly and willfully violated this section.

(e) A knowing and willful violation of any provision of this section by a person acting in an official

capacity for any entity enacting or causing to be enforced a local ordinance or administrative rule or regulation prohibited under paragraph (a) or otherwise under color of law shall be cause for termination of employment or contract or removal from office by the Governor.

(f) A person or an organization whose membership is adversely affected by any ordinance, regulation, measure, directive, rule, enactment, order, or policy promulgated or caused to be enforced in violation of this section may file suit against any county, agency, municipality, district, or other entity in any court of this state having jurisdiction over any defendant to the suit for declaratory and injunctive relief and for actual damages, as limited herein, caused by the violation. A court shall award the prevailing plaintiff in any such suit:

1. Reasonable attorney's fees and costs in accordance with the laws of this state, including a contingency fee multiplier, as authorized by law; and
2. The actual damages incurred, but not more than \$100,000.

Interest on the sums awarded pursuant to this subsection shall accrue at the legal rate from the date on which suit was filed.

(4) EXCEPTIONS.—This section does not prohibit:

(a) Zoning ordinances that encompass firearms businesses along with other businesses, except that zoning ordinances that are designed for the purpose of restricting or prohibiting the sale, purchase, transfer, or manufacture of firearms or ammunition as a method of regulating firearms or ammunition are in conflict with this subsection and are prohibited;

(b) A duly organized law enforcement agency from enacting and enforcing regulations pertaining to firearms, ammunition, or firearm accessories issued to or used by peace officers in the course of their official duties;

(c) Except as provided in s. 790.251, any entity subject to the prohibitions of this section from regulating or prohibiting the carrying of firearms and ammunition by an employee of the entity during and in the course of the employee's official duties;

(d) A court or administrative law judge from hearing and resolving any case or controversy or issuing any opinion or order on a matter within the jurisdiction of that court or judge; or

(e) The Florida Fish and Wildlife Conservation Commission from regulating the use of firearms or ammunition as a method of taking wildlife and regulating the shooting ranges managed by the commission.

(5) SHORT TITLE.—As created by chapter 87-23, Laws of Florida, this section may be cited as the "Joe Carlucci Uniform Firearms Act."

History.—ss. 1, 2, 3, 4, ch. 87-23; s. 5, ch. 88-183; s. 1, ch. 2011-109.

FINAL BILL ANALYSIS

BILL #: CS/CS/CS/HB 45

FINAL HOUSE FLOOR ACTION:

85 Y's 33 N's

SPONSOR: Rep. Gaetz

GOVERNOR'S ACTION: Approved

COMPANION BILLS: CS/CS/CS/SB 402

SUMMARY ANALYSIS

CS/CS/CS/HB 45 passed the House on April 26, 2011, and subsequently passed the Senate on April 28, 2011. The bill was approved by the Governor on June 2, 2011, chapter 2011-109, Laws of Florida, and becomes effective October 1, 2011.

Section 790.33, F.S., currently preempts local governments from regulating firearms and ammunition unless expressly authorized to do so by general law. Subsection (2) of the statute provides such express authorization by giving counties the authority to adopt an ordinance requiring a waiting period of up to three working days between the purchase and delivery of a handgun.

The bill removes the statutory language that authorizes counties to adopt an ordinance requiring a waiting period of up to three working days between the purchase and delivery of a handgun (counties still have the authority, pursuant to Art. VIII, Section 5(b) of the Florida Constitution to require a criminal history records check and a 3 to 5-day waiting period in connection with the sale of any firearm occurring within such county). The bill replaces this provision with language prohibiting specified local governmental entities from regulating or attempting to regulate firearms or ammunition in any manner (except as specifically authorized by s. 790.33, F.S., by general law, or by the Florida Constitution) and provides exceptions to this prohibition.

The bill sets forth various penalties for violating s. 790.33, F.S., including provisions that:

- Require the court to declare ordinances, regulations, or rules that violate s. 790.33, F.S., invalid and issue a permanent injunction against the local government from enforcing such ordinance, regulation, or rule. It is not a defense that, in enacting the ordinance, regulation or rule, the local government was acting in good faith or upon advice of counsel;
- Require the court to assess a civil fine of up to \$5,000 against the elected or appointed local government official or administrative agency head under whose jurisdiction a violation occurred if the court determines that a violation was knowing and willful;
- Specify that a knowing and willful violation of the statute by a person acting in an official capacity is cause for immediate termination of employment; and
- Authorize a person or organization whose membership is adversely affected by any ordinance, regulation, measure, directive, rule, enactment, order, or policy promulgated or enforced in violation of the statute to file suit for declaratory and injunctive relief and for all actual damages attributable to the violation.

The damages and attorney's fees which may be awarded to prevailing plaintiffs could have a negative fiscal impact on state and local governmental entities who willfully violate the statute.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Current Situation

Preemption

Section 790.33, F.S., known as the Joe Carlucci Uniform Firearms Act, became law in 1987¹ and expressly preempts the field of regulation of firearms and ammunition to the state, except as expressly provided by general law.² The intent of the act states:

It is the intent of this section to provide uniform firearms laws in the state; to declare all ordinances and regulations null and void which have been enacted by any jurisdictions other than state and federal, which regulate firearms, ammunition, or components thereof; to prohibit the enactment of any future ordinances or regulations relating to firearms, ammunition, or components thereof unless specifically authorized by this section or general law; and to require local jurisdictions to enforce state firearms laws.³

Local governments may use their home rule powers to enact ordinances not inconsistent with general law.⁴ Local governments may legislate concurrently with the Legislature on any subject that has not been expressly preempted to the state.⁵ Florida law recognizes both express and implied preemption, and express preemption must be made through a specific legislative statement, using clear language.⁶ A municipality may not forbid what the Legislature has expressly authorized, nor may it authorize what the Legislature has expressly forbidden.⁷ The Legislature has preempted regulation of numerous areas of law to the state, including operation of the state lottery,⁸ use of electronic communication devices in motor vehicles,⁹ and interdistrict transfers of groundwater.¹⁰ In cases determining the validity of ordinances enacted in the face of state preemption, the effect has been to find such ordinances null and void.¹¹

In 2000, the City of South Miami passed City Ordinance Number 14-00-1716, which required locking devices on firearms stored within the city. In 2002, Florida's Third District Court of Appeal held the ordinance null and void, stating that local governments were preempted from regulating firearms by section 790.33, F.S.¹² Despite the express preemption stated in section 790.33, F.S., and the court's decision in the City of South Miami case, local governments have regulated or considered regulating firearms in a variety of ways, including measures that would prohibit concealed carry permit holders

¹ Chapter 87-23, L.O.F.

² Section 790.33, F.S.

³ Section 790.33(3), F.S.

⁴ Art. VIII, s. 1(f, g), Fla. Const.; *see also Sarasota v. Browning*, 28 So.3d 880, 885-86 (Fla. 2010).

⁵ *City of Hollywood v. Mulligan*, 934 So.2d 1238, 1243 (Fla. 2006).

⁶ *Sarasota*, 28 So.3d at 886.

⁷ *Rinzler v. Carson*, 262 So.2d 661, 668 (Fla. 1972).

⁸ Section 24.122, F.S.

⁹ Section 316.0075, F.S.

¹⁰ Section 373.2295(10), F.S.

¹¹ *See, e.g., Nat'l Rifle Ass'n of Am., Inc. v. City of S. Miami*, 812 So.2d 504 (Fla. 3d DCA 2002).

¹² *Id.*

from lawfully carrying their firearms on municipal or county property¹³ or ban high-capacity ammunition clips.¹⁴

Section 790.33(1), F.S., preempts local governments from regulating firearms and ammunition unless expressly authorized to do so by general law. The statute specifies that regulation includes the purchase, sale, transfer, taxation, manufacture, ownership, possession, and transportation of firearms and ammunition. The statute does not currently specify that the storage of firearms is included within the term “regulation.”

Exceptions to Preemption

Florida law and the Florida Constitution contain exceptions to the general rule that firearm regulation is preempted to the state. Currently, Section 790.33, F.S., contains a limited exception allowing local governments to enact ordinances governing a three-day handgun purchase waiting period.¹⁵ The following are exempt from waiting period ordinances under the Joe Carlucci Act:

- Individuals who are licensed to carry concealed firearms under the provisions of s. 790.06, F.S., or who are licensed to carry concealed firearms under any other provision of state law and who show a valid license;
- Individuals who already lawfully own another firearm and who show a sales receipt for another firearm, who are known to own another firearm through a prior purchase from the retail establishment, or who have another firearm for trade-in;
- Law enforcement or correctional officers as defined in s. 943.10, F.S.;
- Law enforcement agencies as defined in s. 934.02, F.S.;
- Sales or transactions between dealers or between distributors or between dealers and distributors who have current federal firearms licenses; or
- Any individual who has been threatened or whose family has been threatened with death or bodily injury, provided the individual may lawfully possess a firearm and provided such threat has been duly reported to local law enforcement.

Adopted in 1998, Article VIII, s. 5(b) of the Florida Constitution authorizes counties to require a criminal records check and a 3 to 5-day waiting period in connection with the sale¹⁶ of any firearm occurring within such county.¹⁷ Section 790.0655, F.S. adopted the exceptions from the waiting period for concealed weapons permit holders and handgun trade-ins as required by the 1998 amendment to the Constitution. The Constitution prevails over all local ordinances. Because the Joe Carlucci Act predates the Constitutional provision, and the exemptions listed in the Act were not specified in the Constitution, the exemptions are null and void.

¹³ Lee County Ordinance 06-26 banned firearms from county parks. On October 26, 2010, the county passed ordinance 10-41 which repealed the 2006 ban.

¹⁴ Palm Beach County considered an ordinance banning high capacity ammunition clips, but rescinded from consideration because of the preemption. Andy Reid, *PBC Gun Control Advocates Suffer More Setbacks*, SUNSENTINEL.COM, Feb. 15, 2011, <http://www.palmbeachpost.com/news/palm-beach-county-commissioner-presses-for-ban-on-1216890.html>.

¹⁵ Section 790.33(2), F.S. (1988). Note: At the time of enactment in 1987, the Act provided the exception for a 48-hour waiting period.

¹⁶ The term “sale” is defined as “the transfer of money or other valuable consideration for any firearm when any part of the transaction is conducted on property to which the public has the right of access.” Art. VIII, s. 5(b), Fla. Const.

¹⁷ Concealed weapons permit holders do not have to comply with the waiting periods when purchasing a firearm. Art. VIII, s. 5(b), Fla. Const.

Immunity for Legislative Acts

The general rule under the common law is that legislators enjoy absolute immunity from liability for performance of legislative acts.¹⁸ Absolute immunity for legislators has historically been recognized as a “venerable tradition” which has withstood the development of the law since pre-colonial days.¹⁹ Courts have upheld absolute immunity for legislators at all levels of law-making, including federal, state, and local government levels.²⁰ The courts’ reasoning behind such holdings is that when legislators hold legislative powers, they use them for the public good, and are exempt from liability for mistaken use of their legislative powers.²¹ Furthermore, courts fear that allowing personal liability could distort legislative discretion, undermine the public good by interfering with the rights of the people to representation, tax the time and energy of frequently part-time citizen-legislators, and deter service in local government.²²

When unlawful ordinances have been enacted, the freedom from personal liability does not make the legislative product itself valid.²³ In such instances, affected citizens have been able to challenge the validity of such ordinances by suing to have them declared invalid or have a court enjoin enforcement.²⁴

Courts have found that legislators may be subject to personal liability when they lack discretion.²⁵ Such situations typically exist when legislators are subject to an affirmative duty, such as when a law or court order has directed them to levy a tax. Such acts are labeled “ministerial,” as opposed to “legislative,” acts.²⁶ Arguably, an express and clear preemption would remove discretion from local government officials seeking to engage in lawmaking in the preempted field.

Liens on Municipal Property in Satisfaction of Judgments

Section 55.11, F.S., states that “[n]o money judgment or decree against a municipal corporation is a lien on its property nor shall any execution or any writ in the nature of an execution based on the judgment or decree be issued or levied.” In other words, while a party may be awarded money damages in a suit against a municipality, municipal property may not be subject to a lien to satisfy such an award in the absence of express statutory authorization.²⁷ In the absence of such authorization, a writ of mandamus is “the only vehicle for enforcing judgment against the government.”²⁸ Thus, the Legislature may authorize the satisfaction of an award of damages by seizure of municipal property.

¹⁸ See *Tenney v. Brandhove*, 341 U.S. 367 (1951).

¹⁹ *Bogan v. Scott-Harris*, 523 U.S. 44 (1998). For additional examples of where absolute immunity of legislative acts has been recognized, see *Harlow v. Fitzgerald*, 457 U.S. 800 (1982); *Lake Country Estates v. Tahoe Regional Planning Agency*, 440 U.S. 391 (1979); *Hough v. Amato*, 269 So.2d 537 (Fla. 1st DCA 1972); *Jones v. Loving*, 55 Miss. 109 (1877); *Ross v. Gonzales*, 29 S.W.2d 437 (Tex. Ct. App. 1930).

²⁰ *Bogan*, 523 U.S. 44.

²¹ *Id.* at 50-51 (citing *Jones v. Loving*, 55 Miss. 109).

²² *Id.* at 52.

²³ *Tenney v. Brandhove*, 341 U.S. at 379.

²⁴ See, e.g., *Bogan*, 523 U.S. 44; *Lake Country Estates v. Tahoe Regional Planning Agency*, 440 U.S. 391 (1979); *Tenney*, 341 U.S. 367.

²⁵ *Bogan*, 523 U.S. at 51-52.

²⁶ See *id.*

²⁷ See *Berek v. Metro. Dade County*, 396 So.2d 756, 759 n.4 (Fla. 3d DCA 1981).

²⁸ *N. Coats v. Metro. Dade County*, 588 So.2d 1016, 1017 (Fla. 3d DCA 1991).

Effect of the Bill

Intent

The bill preserves current language that the intent of the Legislature is to occupy the whole field of regulation of firearms and ammunition except as expressly provided by general law, or as provided by the Florida Constitution. The bill adds the following legislative intent language to s. 790.33, F.S.:

It is further the intent of this section to deter and prevent the violation of this section and the violation of rights protected under the constitution and laws of this state related to firearms, ammunition, or components thereof, by the abuse of official authority that occurs when enactments are knowingly passed in violation of state law or under color of local or state authority.

Clarification of Preemption

In order to clarify the preemption, the bill adds additional details about the methods by which local governments or agencies may violate the preemption. The bill amends s. 790.33(1), F.S., to expand the preemption of regulation to also include the storage of firearms and ammunition. Thus, unless expressly authorized by the Constitution or general law, local governments will be preempted from regulating how firearms and ammunition are stored.

In subsection (4) of s. 790.33, F.S., as created by the bill, a provision excepting certain zoning ordinances in the original Carlucci Act has been relocated and other exceptions to the prohibitions are set forth in the bill. Specifically, the bill does not prohibit:

- Zoning ordinances that encompass firearms businesses along with other businesses (zoning ordinances that are designed for the purpose of restricting or prohibiting the sale, purchase, transfer, or manufacture of firearms or ammunition as a method of regulating firearms or ammunition are prohibited);
- Law enforcement agencies from enacting and enforcing firearm-related regulations within their agencies;
- The entities subject to the bill's prohibitions from regulating or prohibiting employees from carrying firearms or ammunition during the course of their official duties, except as provided in s. 790.251, F.S.;
- A court or administrative law judge from resolving a case or issuing an order or opinion on any matter within the court or judge's jurisdiction; or
- The Florida Fish and Wildlife Conservation Commission from regulating the use of firearms or ammunition as a method of taking wildlife and regulating the shooting ranges managed by the Commission.

The bill strikes subsection (2) of 790.33, which is the section regarding waiting periods and waiting period exemptions. Because these sections of the Joe Carlucci Act predate the relevant language in the Constitution and 790.0655, F.S., striking this language clarifies current state law.

Penalties

The bill prohibits a person, county, agency, municipality, district, or other entity from enacting or causing to be enforced local ordinances or administrative rules or regulations that violate the preemption statute and provides penalties.

If any county, city, town, or other local government violates the above prohibition, the bill requires the court to declare the improper ordinance, regulation, or rule invalid and issue a permanent injunction against the local government from enforcing such ordinance, regulation, or rule. It is not a defense that, in enacting the ordinance, regulation or rule, the local government was acting in good faith or upon advice of counsel.

The bill also requires the court to assess a civil fine of up to \$5,000 against the elected or appointed local government official or administrative agency head under whose jurisdiction a violation occurred if the court determines that a violation was knowing and willful. Except as required by law, public funds may not be used to defend or reimburse the unlawful conduct of any person found to have knowingly and willfully violated the preemption statute.

The bill provides that a knowing and willful violation by a person acting in an official capacity for any entity enacting or causing to be enforced a local ordinance or administrative rule or regulation shall be grounds for termination of employment or contract or removal from office by the Governor.

The bill also allows for civil actions. A person or organization whose membership is adversely affected by any ordinance, regulation, measure, directive, rule, enactment, order, or policy promulgated or caused to be enforced in violation of the preemption statute may sue any county, agency, municipality, district or other entity for declaratory and injunctive relief and for all actual damages caused by the violation. In such suits, courts shall award the prevailing plaintiff:

- Reasonable attorneys fees and costs, in accordance with the laws of the state, including a contingency fee multiplier as authorized by law; and
- The actual damages incurred, but not more than \$100,000.

The bill provides that interest on awarded sums will accrue at the legal rate from the date of which suit was filed.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The damages and attorney's fees which may be awarded to prevailing plaintiffs could have a negative fiscal impact on state and local governmental entities who willfully violate the statute.



Commission for Florida Law Enforcement Accreditation, Inc.

STANDARDS REVISION FORM

Please provide standard number, and place an X in the appropriate box.

Standard Number 4.12

| | | | | | |
|--------------|--------------------------|----------|-------------------------------------|----------|--------------------------|
| New Standard | <input type="checkbox"/> | Revision | <input checked="" type="checkbox"/> | Deletion | <input type="checkbox"/> |
|--------------|--------------------------|----------|-------------------------------------|----------|--------------------------|

| |
|---|
| Proposal (State the standard exactly as you believe it should appear in the manual). Requesting a clear definition of analysis, as it pertains to this standard. |
|---|

| |
|--|
| Rationale for revision. There is not one in the standards manual or one offered as an assessor guideline. It leaves it up to the discretion and interpretation of the assessor. |
|--|

Name KathleenHalstead Date 09/22/2011

Agency UNFPD

Address 1 UNF Drive

City, State, ZIP Jacksonville, FL 32224

Phone 904-6202382 Email khalstea@unf.edu

CEO Approval _____

All proposed revisions will be submitted to the Standards Review and Interpretations Committee via CFA for consideration. CEO approval is required for every submission to be considered by the SRIC.

Forward to: CFA/SRIC, P.O. Box 1489 Tallahassee, FL 32302 Phone (800) 558-0218

| | | | | | |
|----------|--------------------------|-------------|--------------------------|-----------------------|--------------------------|
| Approved | <input type="checkbox"/> | Disapproved | <input type="checkbox"/> | Approved with changes | <input type="checkbox"/> |
|----------|--------------------------|-------------|--------------------------|-----------------------|--------------------------|



Commission for Florida Law Enforcement Accreditation, Inc.

STANDARDS REVISION FORM

Please provide standard number, and place an X in the appropriate box.

Standard Number 14.08M - Interpretation

| | | | | | |
|--------------|--|----------|--|----------|--|
| New Standard | | Revision | | Deletion | |
|--------------|--|----------|--|----------|--|

| Proposal (State the standard exactly as you believe it should appear in the manual). | | | |
|---|----------------|--|-----------------------------|
| Standard | Review methods | Assessor Guidelines | |
| 14.08 M A directive establishes a <i>field training program</i> for sworn members, which includes at a minimum: | | Interviews should be conducted with supervisors, FTOs, and new recruits. | |
| A. <i>Selection criteria</i> and training of FTOs; | | | |
| B. Guidelines for evaluating recruit members; | | | |
| C. <i>Field training program</i> of at least four weeks for trainees during and/or after the required classroom training; | | | |
| D. Training <i>curriculum</i> ; | | | |
| E. Supervision of field training officers; | | | |
| F. Liaison with the academy staff, if applicable; | | | |
| G. Rotation of recruit field assignments; and | | | |
| H. Reporting responsibilities of field training officers. | | | |
| Compliance keys | Qty initial | Qty reaccred | Accreditation Manager Notes |
| Written directive addressing elements of the standard. | 1 | 1 | |
| FTO program <i>curriculum</i> . | 1 | 1 | |
| Documentation verifying FTO training. | Sampling | 3YD | |
| Documentation demonstrating field assignment rotations. | Sampling | 3YD | |
| Reports/Evaluations. | Sampling | 3YD | |
| FTO applications. | Sampling | 3YD | |
| Evaluation guidelines. | 1 | 1 | |

| |
|--|
| <p>Rationale for revision.</p> <p>This standard was submitted at the September 2011 meeting to clarify the language regarding the applicability for non-entry level positions (bullet C). The glossary definition for field training program is "A structured and closely supervised program provided for recruit members to facilitate the application of skills and knowledge obtained in the academy/classroom to actual performance in on-the-job situations." This clearly identifies the requirement for this standard to</p> |
|--|

address entry level officers newly graduated from a law enforcement academy. This standard would not apply to a newly hired employee in a management position.

Name _____ CFA Staff _____ Date ____ January 3, 2012 _____

Approved _____ Disapproved _____ Approved with changes _____

| Standard | | Review methods | Assessor Guidelines |
|---|-------------|----------------|-----------------------------|
| 16.11 A directive describes procedures for all members to contest performance evaluations during the probationary period. | | | |
| Compliance keys | Qty initial | Qty reaccred | Accreditation Manager Notes |
| Written directive addressing elements of the standard. | 1 | 1 | |
| Contested evaluations, if any. | 1 | Sampling | |

CFA 3.0 – 13.11

Change Notice 4.0.21 02/03/2011



Commission for Florida Law Enforcement Accreditation, Inc.

STANDARDS REVISION FORM

Please provide standard number, and place an X in the appropriate box.

Standard Number 18.01

| | | | |
|--------------|----------|---|----------|
| New Standard | Revision | X | Deletion |
|--------------|----------|---|----------|

| Proposal (State the standard exactly as you believe it should appear in the manual). | | | |
|--|----------------|---|-----------------------------|
| Standard | Review methods | Assessor Guidelines | |
| 18.01 A directive establishes a system of case file maintenance for the criminal investigation component, to include: | | It is a misconception that criminal histories cannot be maintained in case files. FCIC allows but does not recommend this practice. (FCIC II/NCIC Certification Guide, March 2001, page 68) Criminal history data is constantly changing and should only be kept until a case file is closed, the record is superseded, obsolete or the administrative value is lost. (Criminal Justice Information Services Certification Training Manual, 2010, page 15) | |
| A. Types of records to be maintained; | | | |
| B. Accessibility to the files; | O | | |
| C. Security of the files; and | OS | | |
| D. Purging of files. | OR | | |
| Compliance keys | Qty initial | Qty reaccred | Accreditation Manager Notes |
| Written directive addressing elements of the standard. | 1 | 1 | |
| Observation of files. | | | |
| Documentation demonstrating regularly scheduled purges. | 1 | 3YD | |

| |
|---|
| Rationale for revision. |
| The 2010 version of the user guide is the most current reference available. |

Name CFA STAFF Date 2/7/2012

CEO Approval Signature on file

| | | |
|----------|-------------|-----------------------|
| Approved | Disapproved | Approved with changes |
|----------|-------------|-----------------------|



Commission for Florida Law Enforcement Accreditation, Inc.

STANDARDS REVISION FORM

Please provide standard number, and place an X in the appropriate box.

Standard Number 30.02 M

| | | | | | |
|--------------|--|----------|-----|----------|--|
| New Standard | | Revision | XXX | Deletion | |
|--------------|--|----------|-----|----------|--|

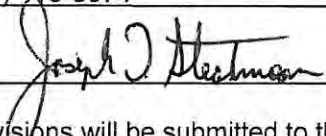
| Proposal (State the standard exactly as you believe it should appear in the manual). | | | |
|---|----------------|---|-----------------------------|
| Standard | Review methods | Assessor Guidelines | |
| 30.02 M The facility has an automatic fire alarm and heat and smoke detection system, fire equipment approved in writing by state or local fire officials, and a directive prescribing fire prevention practices and procedures, to include: | | | |
| A. Regular inspection of fire detection devices and alarm systems for damage or tampering. If the cell is used infrequently, it is inspected prior to placing a <i>prisoner/detainee</i> in the cell; | | Assessors should verify that reasonable provisions for testing or self-testing of the technology used are in place. | |
| B. Documented testing of fire and smoke alarms as required by local fire code; | | | |
| C. Documented semi-annual testing maintenance of fire suppression equipment pursuant to manufacturer recommendations, industry standards and or testing as required by local fire code; and | | Maintenance includes the inspection, servicing, or recharging of the equipment by a person certified to do so. | |
| D. A written <i>plan</i> and posted evacuation map for the facility complete with marked emergency exits and marked direction to hazard free areas. | OF | | |
| Compliance keys | Qty initial | Qty reaccred | Accreditation Manager Notes |
| Written directive addressing elements of the standard. | 1 | 1 | |
| Documentation of testing maintenance. | Sampling | Sampling | |
| Local fire code or governing authority . | 1 | 1 | |
| Observation of posted evacuation map and emergency exit signs. | | | |
| CFA 3.0 – 30.02 | | | |

Rationale for revision.

Recommend revising the language to call for documented maintenance of fire suppression equipment rather than requiring it to be tested. Many fire suppression systems or equipment, such as fire extinguishers, can not be tested. For example, testing a fire extinguisher for operability would involve discharging the suppressing agent contained within, thus possibly rendering it useless in the event of an actual fire. Commonly fire suppression equipment is inspected by certified personnel trained in repairing and servicing the equipment as appropriate. The frequency in which the maintenance is performed varies with the type of involved equipment. Therefore, an additional revision to the compliance key for the agency to provide documented maintenance in accord with the local fire code or governing authority is recommended.

Name Lieutenant Chris Welch Date _____
Agency Division of State Fire Marshal / Bureau of fire and Arson Investigations
Address 200 E. Gaines Street
City, State, ZIP Tallahassee, FL 32399
Phone (850) 413-3674 Email chris.welch@myfloridacfo.com

CEO Approval _____



All proposed revisions will be submitted to the Standards Review and Interpretations Committee via CFA for consideration. CEO approval is required for every submission to be considered by the SRIC.

Forward to: CFA/SRIC, P.O. Box 1489 Tallahassee, FL 32302 Phone (800) 558-0218

Approved _____ Disapproved _____ Approved with changes _____



Commission for Florida Law Enforcement Accreditation, Inc.

STANDARDS REVISION FORM

Please provide standard number, and place an X in the appropriate box.

Standard Number 34.11M

| | | | | | |
|--------------|--|----------|---|----------|--|
| New Standard | | Revision | X | Deletion | |
|--------------|--|----------|---|----------|--|

Proposal (State the standard exactly as you believe it should appear in the manual).

| Standard | Review methods | Assessor Guidelines |
|---|----------------|---------------------|
| 34.11 M The agency has, or has access to, a traffic record system that includes: | | |
| A. <i>Traffic crash data;</i> | | |
| B. <i>Traffic enforcement data; and</i> | | |
| C. <i>Annual Periodic traffic crash and enforcement analysis reports.</i> | | |

| ance keys | Qty initial | Qty reaccrd | Accreditation Manager Notes |
|-----------------------------|-------------|-----------------|-----------------------------|
| Traffic data documentation. | 1 | Sampling 3YD | |
| Traffic analysis reports. | 1 | 1 | |

| |
|--|
| Rationale for revision. |
| To provide for at a minimum the review of crash and enforcement data annually. |

Name CFA Staff Date January 3, 2012

| | | |
|----------------|-------------------|-----------------------------|
| Approved _____ | Disapproved _____ | Approved with changes _____ |
|----------------|-------------------|-----------------------------|



Commission for Florida Law Enforcement Accreditation, Inc.

STANDARDS REVISION FORM

Please provide standard number, and place an X in the appropriate box.

Standard Number _____ New Glossary Term _____

| | | | | | |
|----------------|-------------------------------------|----------|--------------------------|----------|--------------------------|
| New Definition | <input checked="" type="checkbox"/> | Revision | <input type="checkbox"/> | Deletion | <input type="checkbox"/> |
|----------------|-------------------------------------|----------|--------------------------|----------|--------------------------|

| |
|---|
| Proposal (State the standard exactly as you believe it should appear in the manual). |
| Enforcement Analysis - Data presentation, identification of problem areas (if any), recommendations, and conclusions. |

| |
|--|
| Rationale for revision. |
| There has been confusion with application of this definition as it applies to standard 34.11M. This definition provides guidelines to agencies as to what should be included in an enforcement analysis as it relates to enforcement analysis reports for traffic crashes. |

Name _____ CFA Staff _____ Date _____ January 3, 2012 _____

| | | |
|----------------|-------------------|-----------------------------|
| Approved _____ | Disapproved _____ | Approved with changes _____ |
|----------------|-------------------|-----------------------------|



Commission for Florida Law Enforcement Accreditation, Inc.

STANDARDS REVISION FORM

Please provide standard number, and place an X in the appropriate box.

Standard Number 8.01M

| | | | | | |
|--------------|--|----------|---|----------|--|
| New Standard | | Revision | X | Deletion | |
|--------------|--|----------|---|----------|--|

Proposal (State the standard exactly as you believe it should appear in the manual).

| Standard | Review methods | Assessor Guidelines | |
|---|-----------------------------|-----------------------------|-----------------------------|
| 8.01M A directive describes the various conclusions of fact used by the Office of Inspector General investigations function. | | | |
| Compliance keys | Qty initial | Qty reaccred | Accreditation Manager Notes |
| Written directive addressing elements of the standard. | 1 | 1 | |
| Documentation demonstrating the various conclusions of fact. | 1 each type | 1 each type | |

| |
|--|
| Rationale for revision. CFA 27.05 is a similar standard and requires proofs for each type of finding. To add this requirement to IG 8.01 will only stenghten the standards. |
|--|

Name CFA Staff Date January 3, 2012

CEO Approval _____

| | | |
|------------------------|---------------------------|-------------------------------------|
| Approved <u> </u> | Disapproved <u> </u> | Approved with changes <u> </u> |
|------------------------|---------------------------|-------------------------------------|