

**DEPARTMENT OF LAW ENFORCEMENT**

Firearm Purchase Program  
Prior Audit Follow-Up



Sherrill F. Norman, CPA  
Auditor General

## **Executive Director of the Department of Law Enforcement**

The Department of Law Enforcement is established by Section 20.201, Florida Statutes. The head of the Department is the Governor and Cabinet. The Executive Director of the Department is appointed by the Governor, with the approval of the Cabinet, and subject to confirmation by the Senate. During the period of our audit, the following individuals served as Executive Director:

Richard L. Swearingen	From January 13, 2015
	Interim, December 16, 2014, through January 12, 2015
Gerald M. Bailey	Through December 16, 2014

The team leader was Lynley B. Trent, CPA, and the audit was supervised by David R. Vick, CPA.

Please address inquiries regarding this report to David R. Vick, CPA, Audit Manager, by e-mail at [davidvick@aud.state.fl.us](mailto:davidvick@aud.state.fl.us) or by telephone at (850) 412-2817.

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# DEPARTMENT OF LAW ENFORCEMENT

## Firearm Purchase Program Prior Audit Follow-Up

### **SUMMARY**

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This operational audit of the Department of Law Enforcement (Department) focused on the Criminal Justice Professionalism Division and also included a follow-up on the finding noted in our report No. 2014-040 related to the Firearm Purchase Program. Our audit disclosed that, as similarly noted in our report No. 2014-040, records related to adjudications of mental defectiveness and court-ordered mental institution commitments were not always timely entered into the Florida Mental Competency (MECOM) application. In addition, the Department had not established procedures for monitoring the timeliness of entries to the MECOM application, nor documented communications with Clerks of Court staff of counties for which no MECOM application records had been entered during the period June 2014 through February 2016.

### **BACKGROUND**

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Pursuant to State law,<sup>1</sup> the Department's mission is to promote public safety and strengthen domestic security by providing services in partnership with local, State, and Federal criminal justice agencies to prevent, investigate, and solve crimes while protecting Florida's citizens and visitors. In carrying out this mission, the Department is charged with delivering a range of investigative, forensic, and information system services to the State's criminal justice community.

The Department is also responsible for administering the State's Firearm Purchase Program. State law<sup>2</sup> requires that, before selling a firearm, all licensed importers, manufacturers, or firearm dealers (dealers) in the State are to obtain, utilizing a prescribed form,<sup>3</sup> certain information from a potential buyer, including the buyer's name, date of birth, and social security or other identifying number, as well as inspect appropriate photo identification of the buyer. Dealers are to provide the Department the identifying information obtained about the potential buyer and the Department is to utilize the information to conduct a criminal history records check based upon information included in the Florida Crime Information Center, National Crime Information Center, the Computerized Criminal History System, Interstate Identification Index, and National Instant Criminal Background Check System. The Department is also to review the records included in the Florida Mental Competency (MECOM) application to determine whether the potential buyer has been adjudicated mentally defective<sup>4</sup> or has been committed to a mental institution by a court or as otherwise specified by State law. The purpose of these checks is to determine whether

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<sup>1</sup> Chapter 943, Florida Statutes.

<sup>2</sup> Section 790.065, Florida Statutes.

<sup>3</sup> United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives Form 4473 (5300.9) Part 1.

<sup>4</sup> Section 790.065(2)(a)4.a., Florida Statutes, defines adjudicated mentally defective as a determination by a court that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease, is a danger to himself or herself or to others or lacks the mental capacity to contract or manage his or her own affairs. It also includes persons with a judicial finding of incapacity, persons charged with a criminal offense who have been acquitted by reason of insanity, or criminal defendants found not competent to stand trial.

information has been recorded that would disqualify the potential buyer pursuant to State or Federal law. As indicated in State law, one of the findings that may disqualify a potential buyer is a finding that the buyer has been adjudicated mentally defective or has been committed to a mental institution.

## ***FINDINGS AND RECOMMENDATIONS***

### **Finding 1: Mental Competency Application Records**

Pursuant to State law,<sup>5</sup> the Department established and maintains the MECOM application and its associated records of persons who are prohibited from purchasing a firearm based on court adjudications of mental defectiveness or commitments to mental institutions. State law specifies that State Clerks of Court (Clerks) are to electronically submit to the Department, within 1 month after the rendition of an adjudication or commitment, court records of an adjudication of mental defectiveness or commitment to a mental institution. Court records are entered into the MECOM application by the Clerks' staff or are submitted by the Clerks to the Department for entry into the MECOM application. According to Department records, during the period June 2014 through February 2016, approximately 33,345 records were added to the MECOM application related to adjudications of mental defectiveness and court-ordered mental institution commitments.

In our report No. 2014-040, we noted that the information required to be included in the MECOM application was not always timely, accurately, and completely recorded. As part of our audit follow-up procedures, we evaluated Department procedures for monitoring the timeliness, accuracy, and completeness of entries to the MECOM application and analyzed the information entered into the MECOM application during the period June 2014 through February 2016. Although improvements were noted, our audit procedures disclosed that:

- 5,771 of the records were entered into the MECOM application more than 1 month after an adjudication or commitment. As shown by Table 1, 286 of these records were entered into the MECOM application more than 180 days after the date of adjudication or commitment.

**Table 1**  
**Timeliness of MECOM Application Record Entry**  
**For Adjudications or Court-Ordered Commitments**

June 2014 Through February 2016	
Number of Days	Number of Records
31 to 60	4,667
61 to 90	450
91 to 120	223
121 to 180	145
181 to 365	225
366 to 525	61
<b>Total</b>	<b><u>5,771</u></b>

Source: MECOM application records.

<sup>5</sup> Section 790.065(2)(a)4.c., Florida Statutes.

Our audit procedures disclosed that, while the Department had established data edits and procedures for ensuring the accuracy and completeness of MECOM application records, the Department had not established procedures for monitoring whether records of adjudications of mental defectiveness or commitments to mental institutions had been timely entered into the MECOM application. In response to our audit inquiry, Department management indicated that the MECOM application had been enhanced in August 2015 to provide Clerks with on-demand reports which would enable the Clerks to monitor the time frames in which adjudication and commitment records were entered.

- No mental defectiveness adjudication or court-ordered mental institution commitment records were added to the MECOM application for 11 counties during the period June 2014 through February 2016. In response to our audit inquiry, Department management indicated that Department staff had contacted the 11 counties at least every 6 months to verify that the counties had no court orders that should be entered into the MECOM application. However, the Department did not maintain documentation of the contacts or the responses received from the 11 counties. Department management further indicated that, as there were no mental health receiving facilities in the 11 counties, persons in the 11 counties were likely transported to neighboring county facilities and any resulting court orders were recorded in the county where the facilities were located.

The timely entry of mental defectiveness adjudication and court-ordered mental institution commitment records into the MECOM application decreases the risk that prospective firearms buyers, who have been adjudicated mentally defective or who have been committed to a mental institution by a court, may not be subject to timely identification.

**Recommendation:** We recommend that Department management establish procedures to monitor the timeliness of entries into the MECOM application and continue to work with the Clerks to ensure that mental defectiveness adjudication and court-ordered mental institution commitment records are timely entered into the MECOM application as required by State law. In addition, we recommend that Department contacts with, and responses from, Clerks in counties for which no records are entered into the MECOM application are adequately documented.

## ***PRIOR AUDIT FOLLOW-UP***

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Except as discussed in the preceding paragraphs, the Department had taken corrective actions for the finding included in our report No. 2014-040.

## ***OBJECTIVES, SCOPE, AND METHODOLOGY***

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The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from January 2016 through July 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This operational audit of the Department of Law Enforcement (Department) focused on the Criminal Justice Professionalism Division. The overall objectives of the audit were:

- To evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and guidelines.
- To examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, the reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

Our audit also included steps to determine whether management had corrected, or was in the process of correcting, the deficiency noted in our report No. 2014-040.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in management's internal controls, instances of noncompliance with applicable governing laws, rules, or contracts, and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit's findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature, does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, abuse, or inefficiency.

In conducting our audit we:

- Evaluated Department actions taken to correct the finding noted in our report No. 2014-040. Specifically, we:

- Reviewed applicable laws, rules, and Department policies and procedures, and interviewed Department personnel to gain an understanding of Department controls, including policies and procedures, for maintaining the Florida Mental Competency (MECOM) application.
- Analyzed records of adjudications of mental defectiveness and court-ordered mental institution commitments entered into the MECOM application during the period July 2014 through February 2016 to determine whether:
  - The records were entered within 1 month of the adjudication or commitment date and included the information required by Section 790.065, Florida Statutes.
  - There was no evidence in the records that a person who had been adjudicated as mentally defective or committed to a mental institution had been granted relief from a firearms disability.
  - MECOM application records included data from all county Clerks of the Court.
- Examined Department records and performed inquiries of Department staff to determine whether the Department effectively monitored MECOM application records to ensure that all mental defectiveness adjudication and court-ordered mental institution commitment records were timely and accurately entered into the MECOM application.
- Evaluated whether the Department provided sufficient guidance, including training and reference materials, to county Clerks of the Court to ensure that MECOM application records were timely and accurately added for all adjudications of mental defectiveness and court-ordered mental institution commitments.
- Reviewed applicable laws, rules, Department policies and procedures, and other guidelines, and interviewed Department personnel to gain an understanding of criminal justice training schools and officer certifications.
- Obtained an understanding of selected information technology (IT) controls for the Automated Training Management System (ATMS), assessed the risks related to those controls, evaluated whether selected IT application controls were in place, and tested the effectiveness of the controls.
- Examined Department records for 10 annual criminal justice training school inspections, from the population of 78 annual criminal justice training school inspections conducted during the period July 2014 through January 2016, to determine whether the Department conducted annual inspections of criminal justice training schools in accordance with Department Rule 11B-21.019, Florida Administrative Code.
- Examined Department records related to criminal justice instructor certification applications received from 45 individuals, from the population of criminal justice instructor certification applications received from 2,462 individuals during the period July 2014 through January 2016, to determine whether the Department ensured that, prior to certification, criminal justice training instructors met the certification requirements specified by Department Rules, Chapter 11B-20, Florida Administrative Code.
- From the population of 4,342 criminal justice instructor certifications due for recertification by March 31, 2015, examined Department records for 45 instructor certifications to determine whether the Department ensured that, prior to recertification, criminal justice training instructors met the certification requirements specified by Department Rules, Chapter 11B-20, Florida Administrative Code.
- From the population of 4,853 new hire audits performed by the Department at 414 law enforcement agencies during the period July 2014 through June 2015, examined Department records related to 72 new hire audits performed at 40 law enforcement agencies to determine

whether the Department ensured that law enforcement agencies timely and accurately reported officer employment in accordance with Section 943.139, Florida Statutes.

- From the population of 434 law enforcement agency Annual Salary Incentive Compensation Reports dated December 31, 2014, examined 40 law enforcement agency Annual Salary Incentive Compensation Reports to determine whether the Department ensured that law enforcement agencies timely and accurately reported officer employment separations in accordance with Section 943.139, Florida Statutes.
- From the population of 12,000 individuals who enrolled in a basic officer recruit training course during the period July 2014 through January 2016, examined Department records for 30 individuals to determine whether the Department approved the individual to take the State Officer Certification Examination in accordance with Department Rules, Chapter 11B-30, Florida Administrative Code.
- From the population of equivalency of training applications received from 1,327 individuals during the period July 2014 through January 2016, examined Department records for 10 applications submitted by 10 individuals to determine whether the Department approved the application for the individual to be exempt from having to complete the full basic recruit academy in accordance with Department Rules, Chapter 11B-30, Florida Administrative Code.
- From the population of 10,063 officer certification applications received during the period July 2014 through January 2016, examined Department records for 45 applications to determine whether the Department approved the application in accordance with Department Rules, Chapter 11B-27, Florida Administrative Code.
- From the population of 20,057 active criminal justice officers required to complete continuing education or training by June 30, 2015, examined ATMS records for 45 criminal justice officers to determine whether ATMS records indicated that the officers had completed the mandatory continuing education or training.
- Reviewed applicable laws, rules, and other State guidelines to obtain understanding of the legal framework governing Department operations.
- Observed, documented, and evaluated the effectiveness of selected Department processes and procedures for:
  - Cash management, contract administration and monitoring, purchasing, settlement agreements, fixed capital outlay, and financial reconciliations.
  - The administration of the requirements of the Florida Single Audit Act. During the period July 2014 through December 2015, the Department expended \$7,839,078 for seven State financial assistance programs.
  - The management of tangible personal property. As of December 31, 2015, the Department was responsible for tangible personal property with acquisition costs totaling \$96,195,432.
  - The assignment and use of wireless telephones and other devices with related costs totaling \$571,908 for the period July 2014 through December 2015.
- Interviewed Department management, reviewed Department forms, and evaluated Department compliance with applicable statutory requirements for collecting and utilizing individuals' social security numbers.
- Performed inquiries of Department management, examined Department procedures, and inspected Department records to determine whether the Department had established procedures for periodically verifying that Florida Accounting Information Resource Subsystem (FLAIR) access privileges assigned to Department employees were appropriate and necessary for the employees' assigned job duties, and whether the procedures ensured that FLAIR access privileges were



timely updated or canceled based on changes in employee job responsibilities and employment status and provided an appropriate separation of accounting responsibilities.

- Examined FLAIR access control records for 162 Department FLAIR user accounts as of December 2015 to determine whether the users had incompatible or excessive FLAIR access privileges.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

## ***AUTHORITY***

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Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of each State agency on a periodic basis. Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



Sherrill F. Norman, CPA  
Auditor General

# MANAGEMENT'S RESPONSE

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Florida Department of  
Law Enforcement

Richard L. Swearingen  
Commissioner

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Pam Bondi, Attorney General  
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October 20, 2016

Ms. Sherrill F. Norman  
Auditor General  
G74 Claude Pepper Building  
1111 West Madison Street  
Tallahassee, FL 32399-1450

Dear Auditor General Norman:

The enclosed response is provided for the Preliminary and Tentative Findings Report on the Operational Audit of the Florida Department of Law Enforcement, Firearm Purchase Program, Prior Audit Follow-Up.

## **Finding 1:** Mental Competency Application Records

Recommendation: We recommend that Department management establish procedures to monitor the timeliness of entries into the MECOM application and continue to work with the Clerks to ensure that mental defectiveness adjudication and court-ordered mental institution commitment records are timely entered into the MECOM application as required by State law.

FDLE accepts this recommendation. FDLE has plans to enhance the existing procedures (outlined below) and commits to working in partnership with the Clerks of Court to ensure that mental defectiveness adjudication and court-ordered mental institution commitment records are timely entered into the MECOM application.

Background: FDLE is made aware of a mental defectiveness adjudication and court-ordered commitment when they are submitted to the Department as a MECOM entry or submitted for the Department to enter into MECOM on behalf of a Clerk of Court. Clerks of Court, however, may monitor the timeliness and accuracy of their MECOM entries through reports generated through the MECOM application. Using the MECOM tools, Clerks may determine if qualifying orders have been entered in a timely manner – the number of calendar days between date of order and date of entry. Clerks may also monitor their system activity and run reports to monitor the use (and timeliness) of each of their users.

Resolution: In partnership with the Florida Court Clerks and Comptrollers Association, FDLE is building a Web-Service to connect the Comprehensive Case Information System (CCIS) and MECOM. As noted in this recommendation, the Clerks of Court are required by F.S. 790.065(2)(a)4b(II)(D) (excerpt: *clerks of court shall submit these records to the department within 1 month after the rendition of the adjudication or commitment*); Clerks of Court input this information into CCIS. The Web-Service that connects CCIS and MECOM will eliminate duplicate data entry by the Clerks of Court and enable timely submissions of court orders into MECOM and NICS.

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Planned Activities: FDLE is scheduled to participate in the Florida Court Clerks and Comptroller's fall conference (November 2016). FDLE will brief attendees on the updated status of the CCIS MECOM Web-Service project. During a break-out session, FDLE will train attendees on the MECOM application to include a system demonstration and instruction on running reports and use of reports to identify and correct issues to improve the accuracy, completeness, and timeliness of MECOM data. Additionally, FDLE is augmenting the MECOM user guide to emphasize the statutory requirement, F.S. 790.065(2)(a)4b(II)(D), for Clerks to enter mental competency records within specified timeframes and to provide detailed information on using system tools.

Recommendation: In addition, we recommend that Department contacts with, and responses from, Clerks in counties for which no records are entered into the MECOM application are adequately documented.

FDLE accepts this recommendation.

Background: FDLE rarely receives a mental defectiveness adjudication and court-ordered mental institution commitment record from a county that does not have a mental health receiving facility. FDLE has not maintained a documented list of counties that do not have mental health receiving facilities. In the past, FDLE made periodic contact, no less than every six months, for each county that has not submitted mental competency records. The purpose of contact is to offer assistance evaluating court orders to determine qualification for entry; assistance entering qualifying orders; update (as necessary) contact(s) and/or user(s) for the county; and to maintain an overall positive relationship.

Resolution: FDLE will send a formal letter from the FDLE CJIS Director requesting the status of records from Clerks of Court where no records exist in MECOM. Additionally, FDLE will continue to make periodic contact to ensure that Clerks of the Court have the information necessary to comply with FS 790.065(2)(a)4b(II)(D).

If you require further information regarding the actual or proposed corrective actions, please contact Inspector General Lourdes Howell-Thomas at (850) 410-7228.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Richard L. Swearingen', is written over a horizontal line.

Richard L. Swearingen  
Commissioner

RLS/lht