

CALIFORNIA DEPARTMENT OF JUSTICE

TITLE 11. LAW

DIVISION 1. ATTORNEY GENERAL

CHAPTER 12. CALIFORNIA RESTRAINING AND PROTECTIVE ORDER SYSTEM  
(formerly GUN VIOLENCE RESTRAINING ORDERS)

FINAL STATEMENT OF REASONS

UPDATE OF INITIAL STATEMENT OF REASONS

On August 11, 2021, the Department of Justice (Department) published an Addendum to Initial Statement of Reasons to explain modifications to these regulations as originally proposed and the reasons for those modifications. On October 29, 2021, the Department published a Second Addendum to Initial Statement of Reasons to explain modifications to these regulations as proposed on August 11, 2021, and the reasons for those modifications. Both addenda are incorporated by reference herein. On March 10, 2022, the Department published third modifications to these regulations. These regulations were modified as follows:

**Article 1. Title and Scope**

**§ 961. Title and Scope.**

Proposed Article 1 and Section 961 were deleted. This was necessary for efficiency of government and avoiding unnecessary regulations since they merely repeated the title of the regulations, and the scope of the regulations were elaborated more fully in the remaining regulations.

**Article 2. Chapter Definitions**

**§ 962. Definitions.**

Section 962 defines certain terms as they are used throughout the chapter.

**Subdivision (a).** This subdivision was amended to replace “Educational” with “Bona Fide Research” and to delete “or Public Agency.” These amendments are necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations and does not include public agencies as eligible recipients of CARPOS data.

**Subdivision (b).** This subdivision was nonsubstantively amended to insert the acronym “PII” in reference to “Personal Identifying Information.”

**Subdivision (d)(2).** This subdivision was amended to replace “Educational” with “Bona Fide Research” and to delete “or Public Agency.” These amendments are necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations and does not include public agencies as eligible recipients of CARPOS data.

## OAL Register 2021-0112-05

**Subdivision (d)(3).** This subdivision was amended to delete “Public Agency” and nonsubstantively amended to insert a comma and move “or” so the series is grammatically correct. This amendment is necessary to conform the proposed regulations to Penal Code section 14231.5, which does not include public agencies as eligible recipients of CARPOS data.

**Subdivision (f).** This subdivision was amended to replace a reference to GVRO with CARPOS. This amendment is necessary to conform the proposed regulations to Penal Code section 14231.5, which authorizes researcher access to CARPOS data more generally, of which GVRO data is included.

**Subdivision (h).** This subdivision was nonsubstantively amended to replace “Personal Identifying Information” with the acronym “PII,” which is defined earlier in the chapter.

**Subdivision (i).** This subdivision was amended to replace “Educational” with “Bona Fide Research” and to delete “or Public Agency.” These amendments are necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations and does not include public agencies as eligible recipients of CARPOS data.

**Subdivision (j).** This subdivision was deleted. This amendment is necessary to conform the proposed regulations to Penal Code section 14231.5, which authorizes researcher access to CARPOS data more generally, of which GVRO data is included.

**Subdivision (j) formerly subdivision (k).** This subdivision was nonsubstantively amended to replace “Personal Identifying Information” with the acronym “PII,” which is defined earlier in the chapter, and to reletter the subdivision to account for the deletion of former subdivision (j).

**Subdivision (k) formerly subdivision (l).** This subdivision was amended to replace “Educational” with “Bona Fide Research” and to delete “immediately concerned with the Study and Prevention of Violence.” These amendments are necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations but does not authorize the Department to only release data to those institutions “immediately concerned with the study and prevention of violence.” This subdivision was also nonsubstantively amended to reletter the subdivision to account for the deletion of former subdivision (j).

**Subdivision (k)(5) formerly (l)(5).** This subdivision was amended to delete “regionally” and “an accreditation organization approved by” and insert “or Council for Higher Education Accreditation.” This amendment is necessary to clarify that colleges or universities accredited by national or programmatic bodies, in addition to regional bodies, are eligible to receive CARPOS data.

**Subdivision (l) formerly (m).** This subdivision was nonsubstantively amended to include the acronym “PII,” which is defined earlier in the chapter, and to reletter the subdivision to account for the deletion of former subdivision (j).

**Subdivision (m) formerly (n).** This subdivision was nonsubstantively amended to reletter the subdivision to account for the deletion of former subdivision (j).

## OAL Register 2021-0112-05

**Subdivision (o).** This subdivision was deleted. This amendment is necessary to conform the proposed regulations to Penal Code section 14231.5, which authorizes researcher access to CARPOS data more generally, of which GVRO data is included and does not include public agencies as eligible recipients of CARPOS data.

**Subdivision (n) formerly (p).** This subdivision was nonsubstantively amended to reletter the subdivision to account for the deletion of former subdivisions (j) and (o).

**Subdivision (o) formerly (q).** This subdivision was nonsubstantively amended to reletter the subdivision to account for the deletion of former subdivisions (j) and (o).

**Subdivision (p) new subdivision.** This subdivision was inserted to define “Statistical Purposes.” This amendment is necessary to clearly explain what would constitute one of the purposes for which a Bona Fide Researcher qualifies to receive CARPOS data. This subdivision was also nonsubstantively amended to reletter the subdivision to account for the deletion of former subdivisions (j) and (o).

**Subdivision (q) formerly (r).** This subdivision was nonsubstantively amended to correct a typographical error by replacing “and” with “of the” and to reletter the subdivision to account for the deletion of former subdivisions (j) and (o) and insertion of new subdivision (p).

**Subdivision (q)(1) formerly (r)(1).** This subdivision was nonsubstantively amended to account for renumbering by inserting an open parenthesis.

**Subdivision (r) formerly (s).** This subdivision was amended to redefine a Team Member as any individual identified in the Data Request Standard Application, rather than any individual affiliated with a nonprofit educational institution or public agency. This amendment is necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations and does not include public agencies as eligible recipients of CARPOS data. This amendment, responsive to a public comment, is also necessary to allow student assistants, who are not typically classified as employees, to aid research teams in their analysis of data. This subdivision was also nonsubstantively amended to reletter the subdivision to account for the deletion of the former subdivision (j).

The Authority and Reference note was amended to insert Penal Code sections 13125, 13202, and 14240, the last of which is the California Firearm Violence Research Act. This amendment is necessary to reaffirm the Department’s statutory mandate to furnish criminal offender record information and firearm data to certain research entities. This note was also nonsubstantively amended to make “section” plural and move “and” so the series is grammatically correct.

### Article 3. Access and Use

#### § 963. Eligibility for Access to Data.

Section 963 sets forth eligibility requirements for access to and use of CARPOS data by a Bona Fide Researcher from a nonprofit research institution.

**Subdivision (a).** This subdivision was amended to replace “Educational” with “Bona Fide Research” and to delete “or Public Agency” and “related to GVRO.” These amendments are necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations; does not include public agencies as eligible recipients of CARPOS data; and broadens researcher access to CARPOS data more generally, of which GVRO data is included.

**Subdivision (a)(2).** This subdivision was amended to insert a reference to section 966, which outlines requirements for requesting CARPOS data and to replace a reference to GVRO with CARPOS. This amendment is necessary to conform the proposed regulations to Penal Code section 14231.5, which broadens research access to CARPOS data more generally, of which GVRO data is included, so long as the requirements set forth in section 966 are met.

**Subdivision (a)(3).** This subdivision was amended to insert a reference to section 966, which outlines requirements for requesting CARPOS data and to delete overly-restrictive language that runs counter to Penal Code section 14231.5, which authorizes a Bona Fide Researcher from a Nonprofit Bona Fide Research Institution to apply to and receive CARPOS data. These amendments are necessary to conform the proposed regulations to Penal Code section 14231.5, so long as the requirements set forth in section 966 are met.

**Subdivision (a)(3)(A).** This subdivision was deleted. This amendment is necessary to delete overly-restrictive language that runs counter to Penal Code section 14231.5, which authorizes a Bona Fide Researcher from a Nonprofit Bona Fide Research Institution to apply to and receive CARPOS data.

**Subdivision (a)(3)(B).** This subdivision was deleted. This amendment is necessary to delete overly-restrictive language that runs counter to Penal Code section 14231.5, which authorizes a Bona Fide Researcher from a Nonprofit Bona Fide research institution to apply to and receive CARPOS data.

The Authority and Reference note was amended to delete Civil Code section 1798.24 and Penal Code sections 13125 and 13202, and insert Penal Code section 14240, the last of which is the California Firearm Violence Research Act. This amendment is necessary to reaffirm the Department’s statutory mandate to furnish firearm data to certain research entities. This note was also nonsubstantively amended to make “section” plural and move “and” so the series is grammatically correct.

**§ 964. Restrictions on Use or Disclosure of CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data.**

Section 964 details restrictions on the use or disclosure of CARPOS data.

This section was retitled to replace a reference to GVRO with CARPOS. This amendment is necessary to conform the proposed regulations to Penal Code section 14231.5, which broadens research access to CARPOS data more generally, of which GVRO data is included, and to distinguish between restrictions related to De-Identified and Identified Individual-Level Data versus Aggregated Data.

**Subdivision (a).** This subdivision was amended to replace “Educational” with “Bona Fide Research,” delete “Public Agency,” replace a reference to GVRO with CARPOS, and replace “data” with “De-Identified Individual-Level Data or Identified Individual-Level Data.” These amendments are necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations; does not include public agencies as eligible recipients of CARPOS data; and broadens researcher access to CARPOS data more generally, of which GVRO data is included.

**Subdivision (b).** This subdivision was amended to replace “Educational” with “Bona Fide Research,” delete “or Public Agency,” and replace a reference to GVRO with CARPOS. These amendments are necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations; does not include public agencies as eligible recipients of CARPOS data; and broadens researcher access to CARPOS data more generally, of which GVRO data is included.

**Subdivision (c).** This subdivision was amended to replace “Educational” with “Bona Fide Research,” delete “Public Agency,” replace a reference to GVRO with CARPOS, and replace “data” with “De-Identified Individual-Level Data or Identified Individual-Level Data.” This subdivision was also amended to delete the word “such” and to clarify that if purpose and the transfer, disclosure, or dissemination of data is authorized by statute (including Penal Code section 14231.5) or by court order, and the Data Request Standard Application authorized disclosure, additional written approval from the Research Center is not necessary. Alternatively, if written approval is necessary because another situation or use arises not described in the Data Request Standard Application, this subdivision now provides a timeframe for the Research Center to respond to any such request. This amendment is necessary to respond to and refute concerns that the Department may inappropriately use the publication review process, which is designed to protect confidential information, as an illegitimate way to suppress research based on motives other than securing confidential information. These amendments are also necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations; does not include public agencies as eligible recipients of CARPOS data; and broadens researcher access to CARPOS data more generally, of which GVRO data is included.

**Subdivision (d).** This subdivision was deleted to avoid repetition and to add clarity.

**Subdivision (d) formerly (e).** This subdivision was amended to replace “Educational” with “Bona Fide Research,” delete “Public Agency,” and replace a reference to GVRO with CARPOS. These amendments are necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations; does not include public agencies as eligible recipients of CARPOS data; and broadens researcher access to CARPOS data more generally, of which GVRO data is included. This subdivision was also nonsubstantively amended to change “Individuals” to “individuals,” as it is not a specifically-defined term, and to reletter the subdivision to account for the deletion of former subdivision (d).

**Subdivision (e) formerly (f).** This subdivision was amended to replace “Educational” with “Bona Fide Research,” delete “Public Agency,” replace a reference to GVRO with CARPOS, replace “data” with “De-Identified Individual-Level Data or Identified Individual-Level Data,” and replace “Department” with “Research Center.” These amendments are necessary to specify which Department entity would be responsible for supplying the documents and to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations; does not include public agencies as eligible recipients of CARPOS data; and broadens researcher access to CARPOS data more generally, of which GVRO data is included. This subdivision was also nonsubstantively amended to reletter the subdivision to account for the deletion of former subdivision (d).

**Subdivision (f) formerly (g).** This subdivision was amended to delete “GVRO.” This amendment is necessary for avoiding any appearance that these regulations pertain specifically to GVRO data, rather than CARPOS data more generally. This subdivision was also nonsubstantively amended to reletter the subdivision to account for the deletion of former subdivision (d).

**Subdivision (f)(1)(B) formerly (g)(1)(B).** This subdivision was nonsubstantively amended to insert the acronym “FBI” in reference to the “Federal Bureau of Investigation,” which is mentioned later in the chapter, and to reletter the subdivision to account for the deletion of former subdivision (d).

**Subdivision (f)(1)(C) formerly (g)(1)(C).** This subdivision was nonsubstantively amended to correct a reference to the California Identification and Index Number and to reletter the subdivision to account for the deletion of former subdivision (d).

**Subdivision (f)(1)(E) formerly (g)(1)(E).** This subdivision was nonsubstantively amended to replace “Personal Identifying Information” with the acronym “PII,” which is defined earlier in the chapter, and to reletter the subdivision to account for the deletion of former subdivision (d).

**Subdivision (g) formerly (h).** This subdivision was amended to add a timeframe for reviewing any report, evaluation, or document for review and replaces references to GVRO with CARPOS. These amendments are necessary to address researchers’ concerns regarding undue delays in the review process. The subdivision was also revised to reference the Data Request Standard Application, which includes the purpose and objective of the research project. This change is necessary to more accurately describe the scope of the Department’s review, which is to ensure that the report, evaluation, or documents matches the purpose that was declared in the Data Request Standard Application and approved by the Research Center. Amendments also conform the proposed regulations to Penal Code section 14231.5, which broadens research access to CARPOS data more generally, of which GVRO data is included.

**Subdivision (g)(1).** This subdivision was inserted to restate provisions relocated from subdivision (i) and adds a timeframe for Department notification that a publication may compromise the identity of an individual. Amendments also replace references to GVRO with CARPOS, replace “Educational” with “Bona Fide Research,” and delete “Public Agency.” These amendments are necessary to address concerns that undue delays in Department oversight may

hinder research and conform the proposed regulations to Penal Code section 14231.5, which broadens research access to CARPOS data more generally, of which GVRO data is included.

**Subdivision (g)(2).** This subdivision was inserted to clarify that the Research Center shall require the submission of a new or revised Data Request Standard Application if it determines that data was not used for the purposes for which it was originally requested. This will allow the Bona Fide Researcher to inform the Department of the purpose of a project or report that was not previously disclosed so the Department can ensure that the purpose meets the research criteria for CARPOS De-Identified and Identified Individual-Level Data, while still allowing the Bona Fide Researcher access to the data. The subdivision was further amended to clarify when the Research Center may require either a new or revised Data Request Standard Application. This change was necessary to notify the Bona Fide Researchers when to expect submitting a new or revised Data Request Standard Application. This subdivision was also amended to replace a reference to GVRO with CARPOS. These amendments are necessary to efficiently resolve discrepancies between the initially-reported research purpose as described in the Data Request Standard Application and the subsequent purpose as described in any publication. Amendments also conform the proposed regulations to Penal Code section 14231.5, which broadens research access to CARPOS data more generally, of which GVRO data is included.

**Subdivision (g)(3).** This subdivision was nonsubstantively amended to account for renumbering

**Subdivision (i).** This subdivision was deleted and moved to subdivision (g)(1).

**Subdivision (h) *new subdivision.*** This subdivision was inserted to establish an appeal process in the event the Research Center determines that CARPOS De-Identified or Identified Individual-Level Data may not be transferred, disclosed, or disseminated; that such data could compromise the identity of any individual; or that the data obtained was not used for the purposes for which it was requested. The subdivision was also amended to replace “Educational” with “Bona Fide Research” and to delete “Public Agency.” These amendments are necessary to balance the Department’s legal obligation to ensure data security with an applicant’s desire to avoid publication delays that could impact research. The addition of an appeal process is necessary for providing due process in the event the Department is obligated to restrict access or use of the data pursuant to the IPA. Amendments also conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations and does not include public agencies as eligible recipients of CARPOS data.

**Subdivision (h)(1) *new subdivision.*** This subdivision was inserted to stipulate that a Nonprofit Bona Fide Research Institution or a Bona Fide Researcher has 10 calendar days to appeal a decision that CARPOS De-Identified or Identified Individual-Level Data may not be transferred, disclosed, or disseminated; that such data could compromise the identity of any individual; or that the data obtained was not used for the purposes for which it was requested to the Chief of the Department’s Criminal Justice Information Services (CJIS) Division. This subdivision was also amended to provide an email address for the submission of an appeal. These amendments are necessary for the purpose of providing due process to an appellate in the event that the Research Center determined that CARPOS De-Identified or Identified Individual-Level Data may not be transferred, disclosed, or disseminated; that such data could compromise the identity

of any individual; or that the data obtained was not used for the purposes for which it was requested. The 10-day specification ensures an appeal is filed within a timely manner, particularly given a finding that a Nonprofit Bona Fide Research Institution did not adequately secure CARPOS data. The inclusion of an email address ensures the Department will receive appeals in an expeditious, reliable, and documented manner. Amendments also rephrase the subdivision to avoid redundant language.

**Subdivision (h)(2) *new subdivision.*** This subdivision was inserted to allow the CJIS Chief or their designee to serve as the appeal officer. This amendment is necessary for the purpose of identifying a party to serve as the appeal officer who would not be involved in the initial decision to restrict data. The subdivision also allows the appeal officer to collect information and facts necessary for resolving an appeal in a timely manner. This amendment was necessary to describe the powers that the appeal officer has in collecting information or facts and setting the timeline for the evidence, given that some researchers may be concerned about delays. This amendment is necessary to allow the appeal officer the ability to collect information or facts that may aid them in considering the appeal, ensuring that the decision will be fair, that the appeals officer had access to and considered all relevant information and facts, and that due process was afforded to the parties.

**Subdivision (h)(3) *new subdivision.*** This subdivision was inserted to allow the appeal officer to request written responses to an appeal request, including a description of the entities that the appeal officer may ask to submit information or evidence, and to set such deadlines related to the submission of responses as the appeal officer deems necessary. This amendment is necessary for ensuring the appeal officer is empowered to gather all necessary information, allowing entities that may have information or be impacted by any decision an opportunity to submit a response, and for ruling on an appeal in a timely manner. This amendment was necessary to describe the powers that the appeal officer has in collecting information or facts and setting the timeline for the evidence, given that some researchers may be concerned about delays.

**Subdivision (h)(4) *new subdivision.*** This subdivision was inserted to describe the basis for the appeal officer's decision, including the statutory and regulatory authority, facts, information, or evidence, and considering the balance of harms. This amendment is necessary to give clarity and parameters as to how an appeal officer may make a decision, to clearly indicate to an appellant the process by which they may appeal a decision made by the Research Center, and to afford the parties due process.

**Subdivision (h)(5) *new subdivision.*** This subdivision was inserted to require an appeal officer to render their decision in writing within 30 calendar days of receiving an appeal. This amendment is necessary to ensure an appellant is afforded timely due process and to avoid disruptions to research in the event a decision regarding the disclosure and/or use of the data is overturned on appeal.

**Subdivision (h)(6) *new subdivision.*** This subdivision was inserted to establish finality to the appeal process by providing that an appeal officer's decision is final and may not be appealed further. This amendment is necessary for ensuring the timely resolution of administrative proceedings and to clearly indicate to an appellant the process by which they may appeal a decision made by the Research Center.



**Subdivision (i) formerly (j).** This subdivision was amended to replace “Educational” with “Bona Fide Research,” delete “Public Agency,” insert “or Entity,” replace a reference to GVRO with CARPOS, and replace “data” with “De-Identified Individual-Level Data or Identified Individual-Level Data.” These amendments clarify that selling any CARPOS data is prohibited and that this data does not apply to any report, evaluation, or other document that uses or relies on CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data. This addition is necessary to define the scope of the prohibition. These amendments are necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations; does not include public agencies as eligible recipients of CARPOS data; and broadens researcher access to CARPOS data more generally, of which GVRO data is included. Amendments more accurately describe the data subject to restriction and nonsubstantively reletter the subdivision to account for the insertion of new subdivision (h).

**Subdivision (j) formerly (k).** This subdivision was amended to replace “Educational” with “Bona Fide Research,” delete “Public Agency,” replace a reference to GVRO with CARPOS, and replace “data” with “De-Identified Individual-Level Data or Identified Individual-Level Data.” These amendments are necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations; does not include public agencies as eligible recipients of CARPOS data; and broadens researcher access to CARPOS data more generally, of which GVRO data is included. Amendments more accurately describe the data subject to restriction and nonsubstantively reletter the subdivision to account for the insertion of new subdivision (h).

**Subdivision (k) formerly (l).** This subdivision was amended to replace “Educational” with “Bona Fide Research,” delete “Public Agency,” replace a reference to GVRO with CARPOS, and replace “data” with “De-Identified Individual-Level Data or Identified Individual-Level Data.” These amendments are necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations; does not include public agencies as eligible recipients of CARPOS data; and broadens researcher access to CARPOS data more generally, of which GVRO data is included. Amendments more accurately describe the data subject to restriction and nonsubstantively reletter the subdivision to account for the insertion of new subdivision (h).

**Subdivision (k)(2) formerly (l)(2).** This subdivision was nonsubstantively amended to replace “Personal Identifying Information” with the acronym “PII,” which is referenced earlier in the section, and relettered to account for the insertion of new subdivision (h).

**Subdivision (k)(3) formerly (l)(3).** This subdivision was amended to insert “The Nonprofit,” replace “Educational” with “Bona Fide Research,” insert “Institution,” delete “Public Agency,” insert “and/or Bona Fide Researcher shall,” and make conforming changes to capitalization. These amendments are necessary for ensuring liability applies only to a Nonprofit Bona Fide Research Institution or a Bona Fide Researcher, rather than a research Team Member (such as students or temporary employees). Amendments ensure that, in the event of a breach, liability is properly placed with the party that has the adequate financial ability to comply with this

requirement. Amendments also conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations and does not include public agencies as eligible recipients of CARPOS data. The subdivision was also relettered to account for the insertion of new subdivision (h).

**Subdivision (l) formerly (m).** This subdivision was amended to replace “Educational” with “Bona Fide Research,” delete “Public Agency,” replace a reference to GVRO with CARPOS, and replace “data” with “De-Identified Individual-Level Data or Identified Individual-Level Data.” These amendments are necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations; does not include public agencies as eligible recipients of CARPOS data; and broadens researcher access to CARPOS data more generally, of which GVRO data is included. Amendments more accurately describe the data subject to restriction and nonsubstantively reletter the subdivision to account for the insertion of new subdivision (h). This subdivision was also amended to require the Nonprofit Bona Fide Research Institution and Bona Fide Researcher to notify the Research Center within 30 days of a project’s completion. This was necessary to provide the Nonprofit Bona Fide Research Institution and Bona Fide Researchers with clear guidelines. It also is necessary for the Department to protect the data under the relevant statutes, the IPA, and these regulations by uniformly tracking the data and ensuring it has been destroyed.

**Subdivision (m) formerly (n).** This subdivision was nonsubstantively amended to reletter the subdivision to account for the insertion of new subdivision (h).

The Authority and Reference note was amended to delete Civil Code section 1798.21 and Penal Code section 13125 in the Authority, to insert Penal Code sections 13202, and 14240 in the Authority, and to insert Penal Code section 13125, 13202, and 14240 in the Reference, the last of which is the California Firearm Violence Research Act, and Civil Code section 1798.21, the IPA. This amendment is necessary to reaffirm the Department’s statutory mandate to furnish criminal offender record information and firearm data to certain research entities as well as demonstrate the Department’s authority to ensure compliance with personal data security and confidentiality requirements. This note was also nonsubstantively amended to make “section” plural and move “and” so the series is grammatically correct.

### **§ 965. Procedures for Requesting CARPOS Aggregated Data.**

Section 965 outlines procedures for Bona Fide Researchers and entities requesting CARPOS Aggregated Data from the Department’s Research Center.

This section was retitled to replace a reference to GVRO with CARPOS. This amendment is necessary to conform the proposed regulations to Penal Code section 14231.5, which broadens research access to CARPOS data more generally, of which GVRO data is included.

**Subdivision (a).** This subdivision was amended to replace a reference to GVRO with CARPOS. This amendment is necessary to conform the proposed regulations to Penal Code section 14231.5, which broadens research access to CARPOS data more generally, of which GVRO data

is included. There was a word change from “public records” to “data” to more accurately describe the process to follow when submitting requests to the Department and to conform to the process description in section 966, subdivision (a). Use of the phrase “public records” may confuse the two types of requests. Further, as noted below, there was a word change from “Research Center” to the “Department.” The Research Center handles data requests, not Public Records Act requests. This change was necessary to confirm the entity that would be responding to the public records request, which is the Department generally and to conform the terminology in subdivision (a) with that in subdivision (c), which had already noted that the Department would be respond to such a request. Additionally, the word “electronically” was deleted as Public Records Act requests can be submitted in various ways, which was necessary to conform to the Public Records Act.

**Subdivision (b).** This subdivision was amended to delete a reference to an entity and to replace a reference to GVRO with CARPOS. This amendment is necessary to remove the underinclusive term “Entity” since a Bona Fide Researcher may also request Aggregated Data. This amendment is also necessary to conform the proposed regulations to Penal Code section 14231.5, which broadens research access to CARPOS data more generally, of which GVRO data is included, so long as the requirements set forth in section 966 are met. Several clauses related to “requests” were nonsubstantively deleted for syntax purposes.

**Subdivision (c).** This subdivision was amended to replace “Entity” with “requestor.” This amendment is necessary to replace the underinclusive term “Entity” since a Bona Fide Researcher may also request Aggregated Data.

The Authority and Reference note was amended to delete Civil Code section 1798.24 and to insert Penal Code sections 14231.5 and 14240 in the Authority, and to insert Penal Code section 13202, 14231.5, and 14240 in the Reference. Civil Code section 1798.24 is part of the IPA, and Penal Code sections 14231.5 and 14240 are part of the California Firearm Violence Research Act. This amendment is necessary to reaffirm the Department’s statutory mandate to furnish criminal offender record information and firearm data to certain research entities as well as demonstrate the Department’s authority to ensure compliance with personal data security and confidentiality requirements.

### **§ 966. Procedures for Requesting CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data.**

Section 966 establishes procedures for requesting De-Identified and Identified Individual-Level CARPOS Data.

This section was retitled to replace a reference to GVRO with CARPOS and insert “De-Identified Individual-Level Data or Identified Individual-Level.” This amendment is necessary to conform the proposed regulations to Penal Code section 14231.5, which broadens research access to CARPOS data more generally, of which GVRO data is included, and in response to some comments requesting further clarity about the general use of “GVRO data,” to clarify what types of data this section applies.

## OAL Register 2021-0112-05

**Subdivision (b)(4).** This subdivision was amended to replace “Educational” with “Bona Fide Research” and to delete “or Public Agency.” These amendments are necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations and does not include public agencies as eligible recipients of CARPOS data.

**Subdivision (b)(5).** This subdivision was amended to replace “Educational” with “Bona Fide Research” and to delete “or Public Agency.” These amendments are necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations and does not include public agencies as eligible recipients of CARPOS data.

**Subdivision (b)(6).** This subdivision was amended to replace “Educational” with “Bona Fide Research” and to delete “or Public Agency.” This amendment is necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations and does not include public agencies as eligible recipients of CARPOS data.

**Subdivision (b)(7).** This subdivision was amended to replace “Educational” with “Bona Fide Research” and to delete “or Public Agency.” These amendments are necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations and does not include public agencies as eligible recipients of CARPOS data.

**Subdivision (b)(10)(B).** This subdivision was amended to replace a reference to GVRO with CARPOS. This amendment is necessary to conform the proposed regulations to Penal Code section 14231.5, which authorizes researcher access to CARPOS data more generally, of which GVRO data is included.

**Subdivision (b)(12)(A)(ii).** This subdivision was amended to insert “especially Identified Individual-Level Data and PII, is required and” and “Statistical Purposes” and replace “and” with “of the.” These amendments are necessary because of changes elsewhere in the regulations allowing the release of CARPOS De-Identified or Identified Individual-Level Data, the definition of Statistical Purposes being added, and the use of “Study of the Prevention of Violence” in Penal Code sections 14231.5 and 14240. The added phrase “especially Identified Individual-Level Data and PII, is required and” is necessary to ensure a Bona Fide Researcher has a legitimate need for PII. Additionally, since Statistical Purposes was defined and is also a basis for eligibility to receive the relevant data, the Department included Statistical Purposes in this subdivision. This change was necessary for Bona Fide Researchers to know what information is required in the Data Request Standard Application. Also, this subdivision’s changes were necessary to allow the Department to continue to meet its obligations under the IPA while balancing its obligation to release information under Penal Code section 14231.5 by ensuring information is only released consistent with Penal Code section 14231.5 and these regulations.

**Subdivision (b)(12)(A)(v).** This subdivision was amended to delete language inconsistent with amendments made in section 963 in response to comments and to replace a reference to GVRO

with CARPOS. This is necessary to conform to section 963 and make clear that a cohort was no longer required to be submitted as well as conform the proposed regulations to Penal Code section 14231.5, which authorizes researcher access to CARPOS data more generally, of which GVRO data is included.

**Subdivision (b)(12)(C).** This subdivision was amended to replace a reference to GVRO with CARPOS and “data” with “De-Identified Individual-Level Data or Identified Individual-Level Data.” These amendments are necessary to conform the proposed regulations to Penal Code section 14231.5, which authorizes researcher access to CARPOS data more generally, of which GVRO data is included, and clarify that “data” refers to CARPOS De-Identified and Identified Individual-Level Data, not Aggregated Data. This change is necessary because Aggregated Data is not subject to the same restrictions as De-Identified or Identified Individual-Level Data.

**Subdivision (b)(12)(D).** As discussed below, this subdivision was amended to delete the title of the document that must be signed and certified by the security officer or information technology (IT) manager, the information the security officer or IT manager must provide, and the certification and requirements that the security officer or IT manager must verify. Because information the Department maintains in its various databases is becoming increasingly subject to various disclosures under the law, like Penal Code section 14231.5, the Department made these changes based on ongoing efforts to update and communicate security requirements for research organizations, contractors, external entities, and vendors. The Department revised the requirements based on federal requirements governing criminal justice information. The changes in the regulation are necessary to incorporate all of the requirements in that document, to delete requirements that are not in that document, and to provide guidance to Nonprofit Bona Fide Research Institutions and Bona Fide Researchers as to what requirements they must meet for security controls. The security requirements described in the new document and in the regulation are based on consultations with the Department’s security and IT personnel.

**Subdivision (b)(12)(D)(i).** This subdivision was amended to replace “Educational” with “Bona Fide Research” and to delete “or Public Agency.” These amendments are necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations and does not include public agencies as eligible recipients of CARPOS data. Additionally, “position title” was removed from the list of information required in this document based on consultations with the Department’s security and IT personnel because it was not a required element.

**Subdivision (b)(12)(D)(ii).** This subdivision was amended to include requirements for data storage on cloud providers, including the FBI CJIS Appendix A Clouds Control Catalog. This change is necessary to incorporate the requirements of the “California Justice Information Services Division Security Requirements for Research Organizations, Contractor, External Entities & Vendor” and to provide notice and guidance to Nonprofit Bona Fide Research Institutions and Bona Fide Researchers regarding the security requirements. This subdivision also incorporates by reference two additional documents that set forth the requirements that Nonprofit Bona Fide Research Institutions and Bona Fide Researchers must meet for security control: United States Department of Justice CJIS Requirements Companion Document to the FBI CJIS Security Policy Version 5.9, dated June 1, 2020, and the FBI CJIS Appendix A

Cloud Control Catalog. The Department chose these guidelines because they provide a minimum set of security requirements for access to FBI CJIS Division systems and information and to protect and safeguard criminal justice information. These guidelines have integrated presidential directives, federal laws, FBI directives, the criminal justice community's advisory policy board decisions along with nationally recognized guidance from the National Institute of Standards and Technology (NIST) and the National Crime Prevention and Privacy Compact Council into its guidelines. Because CARPOS is in one of the Department's criminal databases, and may include criminal and federal information, the CJIS security requirements were necessary to include in order to allow the Bona Fide Researchers access to the information. The Department also nonsubstantively deleted the "s" in the Cloud Control Catalog, which was necessary to use the correct title of the document. The Department also deleted the url for the document, since the document had already been made available and was incorporated by reference.

**Subdivision (b)(12)(D)(iii)** *new subdivision*. This subdivision was inserted to require certification that data storage must have undergone either a (a) Systems and Organization 2 audit or (b) Federal Risk and Authorization Management Program certification. This amendment is necessary for ensuring CARPOS data furnished by the Department is stored securely.

**Subdivision (b)(12)(D)(iv)**. This subdivision was deleted to conform to modifications made elsewhere in these proposed regulations.

**Subdivision (b)(12)(D)(v)**. This subdivision was deleted as the Department permits data storage on cloud providers. This amendment is necessary to accommodate a common method of storing data.

**Subdivision (b)(12)(F)**. This subdivision was amended to insert "or human subjects committee." This amendment is necessary to mirror Penal Code sections 14231.5 and 14240. Both statutes authorize the Department to release CARPOS data to eligible Nonprofit Bona Fide Research Institutions following approval by the institution's institutional review board or human subjects committee. This amendment is necessary to align the proposed regulations to the authorizing statute and not limit the required approval solely to the applicant's institutional review board.

**Subdivision (c)**. This subdivision was amended to delete approval requirements for public agencies as Penal Code section 14231.5 no longer allows disclosures to a public agency as well as insert "human subjects committee." These amendments are necessary to conform the proposed regulations to Penal Code sections 14231.5 and 14240, which do not include public agencies as eligible recipients of CARPOS data but authorize the Department to release CARPOS data to an eligible Nonprofit Bona Fide Research Institution following approval by the institution's institutional review board or human subject committee. These amendments are necessary to avoid limiting required approval solely to the applicant's institutional review board.

**Subdivision (c)(1)** *new subdivision*. This subdivision was inserted because new Penal Code section 14240 mandates that the Department include an option for researchers to obtain approvals under Civil Code section 1798.24, subdivision (t). Including this additional process

also accommodates a public comment requesting access to CARPOS information as permitted under Civil Code section 1798.24, subdivision (t).

**Subdivision (d).** This subdivision was amended to replace “Educational” with “Bona Fide Research;” delete “or Public Agency;” and conform to changes in the definition of “Team Member” in section 962, subdivision (t), by deleting the requirement that the “Team Member” be “Affiliated” with the Nonprofit Bona Fide Research Institution. These amendments are necessary to conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations and does not include public agencies as eligible recipients of CARPOS data. This subdivision was also nonsubstantively amended to correct a verb tense. These amendments maintain consistency in the regulations and allow flexibility for the Nonprofit Bona Fide Research Institution or Bona Fide Researcher in selecting research teams. The Department also deleted the requirement that the official verify that the Bona Fide Researcher and Team Members had received human subject protection and ethics training. This was necessary because the Research Center does not require the official to make such a representation.

**Subdivision (e) *new subdivision.*** This subdivision was inserted to require the Bona Fide Researcher and Team Members to provide their certificates demonstrating that they had completed human subject protection and ethics training. This was necessary because this is one step for the Department to ensure proper safeguards to protect the individuals’ information that is included in the data.

**Subdivision (f) *new subdivision.*** This subdivision was inserted to conform to changes in section 963 allowing the release of CARPOS Identified Individual-Level Data by requiring background checks and replaces references to GVRO with CARPOS. These amendments are necessary to allow the Department to balance its obligations under Penal Code section 14231.5, the IPA, and other statutory and regulatory requirements governing access to PII and criminal and federal information by ensuring proper safeguards are in place. Amendments also conform the proposed regulations to Penal Code section 14231.5, which authorizes researcher access to CARPOS data more generally, of which GVRO data is included. Also, in response to comments, the subdivision provides an appeals process if a Bona Fide Researcher or Team Member fails the background check. This change is necessary to remedy any mistakes made during the background check process.

**Subdivision (g) *new subdivision.*** This subdivision was inserted because revised Penal Code section 14231.5, subdivision (b), and new Penal Code section 14240, subdivision (b), require that the Department provide a written statement with the specific reasons for a denial of a data request or letter of support for research. This subdivision is necessary to comply with the new statutory requirement as well as to inform the researchers of the process to submit requests for letters of support and related timelines. Since the Department had already established an appeals process in its proposed regulations and given the legislative intent of Penal Code section 14231.5, denials of a data request or letter of support for research were also added as grounds for appeal as described in new subdivision (h). Including these denials as a reason for an appeal helps further the legislative intent by ensuring that the researchers are provided the information they are entitled to in a timely manner. Additionally, including these grounds as reasons for appeal led to some duplicative language so previous (e)(1) and (2) were deleted and revised.

**Subdivision (h) *new subdivision*.** This subdivision was inserted because revised Penal Code section 14231.5, subdivision (b), and new Penal Code section 14240, subdivision (b), require that the Department provide a written statement with the specific reasons for a denial of a data request or letter of support for research. This subdivision is necessary to comply with the new statutory requirement as well as to inform the researchers of the process to submit requests for letters of support and related timelines. Since the Department had already established an appeals process in its proposed regulations and given the legislative intent of Penal Code section 14231.5, denials of a data request or letter of support for research were also added as grounds for appeal as described in new subdivision (h). Including these letters of support for research as a reason for an appeal helps further the legislative intent by ensuring that the researchers are provided the information they are entitled to in a timely manner. Additionally, including these grounds as reasons for appeal led to some duplicative language so previous (e)(1) and (2) were deleted and amended.

**Subdivision (i) *new subdivision*.** This subdivision was inserted to establish an appeal process in the event the Research Center denies a Data Request Standard Application, the failure of a background check, or the denial of a letter of support. These amendments are necessary to balance the Department's legal obligation to ensure data security with an applicant's desire to avoid delays that could impact research. The addition of an appeal process is necessary for providing due process in the event the Department is obligated to withhold access pursuant to the IPA.

**Subdivision (i)(1).** This subdivision was deleted for the purpose of brevity and to avoid unnecessary word usage regarding the submission of the appeal.

**Subdivision (i)(1) *formerly (i)(2)*.** This subdivision was inserted to stipulate that a Nonprofit Bona Fide Research Institution or a Bona Fide Researcher has 10 calendar days to appeal to the CJIS Chief. This subdivision was also amended to provide an email address for the submission of an appeal. These amendments are necessary for the purpose of providing due process to an appellante in the event they received denials that impacted their project (letters of support), or access to the data (denial of Data Request Standard Application or background check). The 10-day specification ensures an appeal is filed within a timely manner, particularly given the sensitivity of CARPOS data. The inclusion of an email address ensures the Department will receive appeals in an expeditious, reliable, and documented manner. Amendments also rephrase the subdivision to avoid redundant language.

**Subdivision (i)(2) *formerly (i)(3)*.** This subdivision was inserted to allow the CJIS Chief or their designee to serve as the appeal officer and to collect information necessary for resolving an appeal in a timely manner. This amendment was necessary to describe the powers that the appeal officer has in collecting information or facts and setting the timeline for the evidence, given that some researchers may be concerned about delays. This amendment is necessary to allow the appeal officer the ability to collect information or facts that may aid them in considering the appeal, ensuring that the decision will be fair, that the appeals officer had access to and considered all relevant information and facts, and that due process was afforded to the parties. This amendment was also necessary for the purpose of identifying a party to serve as the appeal officer who would not be involved in the initial decision to restrict data.



**Subdivision (i)(3) formerly (i)(4).** This subdivision was inserted to allow the appeal officer to request written responses to an appeal request, including a description of the entities that the appeal officer may ask to submit information or evidence, and to set such deadlines related to the submission of responses as the appeal officer deems necessary. This amendment is necessary for ensuring the appeal officer is empowered to gather all necessary information, allowing entities that may have information or be impacted by any decision an opportunity to submit a response, and for ruling on an appeal in a timely manner. This amendment was necessary to describe the powers that the appeal officer has in collecting information or facts and setting the timeline for the evidence, given that some researchers may be concerned about delays.

**Subdivision (i)(4) formerly (i)(5).** This subdivision was inserted to describe the basis for the appeal officer's decision, including the statutory and regulatory authority, facts, information, or evidence, and considering the balance of harms. This amendment is necessary to give clarity and parameters as to how an appeal officer may make a decision, to clearly indicate to an appellant the process by which they may appeal a decision made by the Research Center, and to afford the parties due process.

**Subdivision (i)(5) formerly (i)(6).** This subdivision was inserted to require an appeal officer to render their decision in writing within 30 calendar days of receiving an appeal. This amendment is necessary to ensure an appellant is afforded timely due process and to avoid disruptions to research in the event a decision regarding the denial is overturned on appeal.

**Subdivision (i)(6) new subdivision.** This subdivision was inserted to establish finality to the appeal process by providing that an appeal officer's decision is final and may not be appealed further. This amendment is necessary for ensuring the timely resolution of administrative proceedings and to clearly indicate to an appellant the process by which they may appeal a decision made by the Research Center.

**Subdivision (j) formerly (e).** This subdivision was nonsubstantively amended to reletter the subdivision to account for the insertion of new subdivisions (e), (f), (g), (h), and (i). It was also amended to clarify the renewal request process, including the timeframe that the Research Center would notify the Bona Fide Researchers and when the Bona Fide Researchers would complete the renewal process. This amendment was necessary for the Research Center and the Bona Fide Researchers to understand the obligations of each in the renewal process and the timing for the renewal process to be completed. This will help avoid disruption to projects and research by informing the Bona Fide Researchers of when they must complete the renewal process. It will also help protect individuals' information by allowing the Department to track when projects may be complete or expired, and whether any other actions need to be taken as a result, such as ensuring the data is destroyed.

**Subdivision (j)(4) formerly (e)(4).** This subdivision was amended to replace a reference to GVRO with CARPOS. This amendment is necessary to conform the proposed regulations to Penal Code section 14231.5, which authorizes researcher access to CARPOS data more generally, of which GVRO data is included. This subdivision was also nonsubstantively amended to reletter the subdivision to account for the insertion of new subdivisions (e), (f), (g), and (h).

**Subdivision (j)(5) formerly (e)(5).** This subdivision was amended to replace a reference to GVRO with CARPOS. This amendment is necessary to conform the proposed regulations to Penal Code section 14231.5, which authorizes researcher access to CARPOS data more generally, of which GVRO data is included. This subdivision was also nonsubstantively amended to reletter the subdivision to account for the insertion of new subdivisions (e), (f), (g), and (h).

**Subdivision (j)(6) formerly (e)(6).** This subdivision was amended to insert “or human subjects committee.” This amendment is necessary to mirror Penal Code sections 14231.5 and 14240. Both statutes authorize the Department to release CARPOS data to eligible Nonprofit Bona Fide Research Institutions following approval by the institution’s institutional review board or human subjects committee. This amendment is necessary to align the proposed regulations to the authorizing statute and not limit the required approval solely to the applicant’s institutional review board. This subdivision was also nonsubstantively amended to reletter the subdivision to account for the insertion of new subdivisions (e), (f), (g), and (h).

The Authority and Reference note was amended to delete Civil Code sections 1798.21 and 1798.24, and Penal Code section 13125 in the Authority and to insert Penal Code sections 13125, 13202, and 14240, the last of which is the California Firearm Violence Research Act, and Civil Code sections 1798.21 and 1798.24, the IPA, in the Reference. This amendment is necessary to reaffirm the Department’s statutory mandate to furnish criminal offender record information and firearm data to certain research entities as well as demonstrate the Department’s authority to ensure compliance with personal data security and confidentiality requirements. This note was also nonsubstantively amended to make “section” plural and move “and” so the series is grammatically correct.

#### **Article 4. Destruction of Data**

##### **§ 967. Procedures for Destruction of CARPOS De-Identified Individual-Level Data or Identified Individual-Level Data.**

Section 967 sets forth requirements for the appropriate destruction of CARPOS data held by a Bona Fide Researcher.

This section was retitled to replace a reference to GVRO with CARPOS and insert “De-Identified Individual-Level Data or Identified Individual-Level.” This amendment is necessary to conform the proposed regulations to Penal Code section 14231.5, which broadens research access to CARPOS data more generally, of which GVRO data is included, and to distinguish between destruction requirements of De-Identified and Identified Individual-Level Data versus Aggregated Data.

**Subdivision (a).** This subdivision was amended to insert “Except as provided in subdivision (b),” make conforming changes to capitalization, and distinguish between destruction requirements of different types of data. This subdivision was also amended to replace a reference to GVRO with CARPOS. These amendments are necessary because subdivisions (b) and (c) allow a Bona Fide Researcher to request additional time to destroy data and because Aggregated Data is not subject to the same restrictions as De-Identified or Identified Individual-Level Data.

Amendments also conform the proposed regulations to Penal Code section 14231.5, which broadens research access to CARPOS data more generally, of which GVRO data is included. Subdivision (a) was also revised to clarify that the notice of the project completion in section 964, subdivision (l) and the notice of data destruction would be simultaneously submitted to the Research Center. This was necessary for the Bona Fide Researchers to understand their obligations for notifying the Research Center of a project's completion and data destruction. This was also necessary to help protect individuals' information by allowing the Department to track when projects are complete and ensuring the data is destroyed.

**Subdivision (a)(4).** This subdivision was amended to replace "confidential information" with "De-Identified Individual-Level Data or Identified Individual-Level Data" and to replace a reference to GVRO with CARPOS. These amendments are necessary to more accurately describe the data subject to destruction requirements and to conform the proposed regulations to Penal Code section 14231.5, which broadens research access to CARPOS data more generally, of which GVRO data is included.

**Subdivision (a)(5).** This subdivision was amended to replace a reference to GVRO with CARPOS. This amendment is necessary to conform the proposed regulations to Penal Code section 14231.5, which authorizes researcher access to CARPOS data more generally, of which GVRO data is included.

**Subdivision (a)(7).** This subdivision was revised to clarify that the title of the witnesses to the data destruction would be included in the certificate of the data destruction. This was necessary to delete a phrase not used elsewhere, conform to the language in Subdivision (a)(6), and so that the Bona Fide Researchers would know what information they needed to include in the certificate of the data destruction.

**Subdivision (a)(8).** This subdivision was amended to delete repetitive and unnecessary language and to replace a reference to GVRO with CARPOS. These amendments are necessary for readability and to conform the proposed regulations to Penal Code section 14231.5, which authorizes researcher access to CARPOS data more generally, of which GVRO data is included.

**Subdivision (b) *new subdivision.*** This subdivision was inserted to allow a Bona Fide Researcher to submit a request to extend the time for destruction of the CARPOS data for purposes of verification and validation. Subdivision (b) also was revised to clarify that the notice of project completion in section 964, subdivision (l) and the request for extension of time for data destruction would be simultaneously submitted to the Research Center. It was also revised to add clarity regarding the process for when any subsequent requests for extension would be made, or otherwise informing the Research Center that no further extensions were required and the data had been destroyed. These amendments were necessary for the Research Center and the Bona Fide Researchers to understand the obligations of each in the extension process and the timing for the requests for extension to be completed.

The Research Center shall authorize up to seven years for verification and validation as requested by the applicant. This subdivision was also amended to replace a reference to GVRO with CARPOS. These amendments are necessary as researchers need time after completion of a research project and publication for other researchers to verify their findings with seven years

being industry standard, according to public comments received by the Department. In order to ensure that the Research Center is able to track which Bona Fide Researchers are in possession of what data and which projects are still open, the Research Center will require an annual submission of a request. This annual submission also aligns with the requirement of when project renewal requests must be submitted, which is ninety days before the expiration of the extension. If the Research Center did not have an annual requirement, a Bona Fide Researcher may leave an eligible Nonprofit Bona Fide Research Institution, and the Research Center would be unable to verify the ongoing protection and destruction of CARPOS data. Therefore, these amendments are necessary to help protect individuals' information by allowing the Department to track when projects may be complete, expired, or extended, and whether any other actions need to be taken as a result, such as ensuring the data is destroyed. Amendments also conform the proposed regulations to Penal Code section 14231.5, which authorizes researcher access to CARPOS data more generally, of which GVRO data is included.

**Subdivision (c) *new subdivision.*** This subdivision was inserted to allow CARPOS data to be incorporated into a new Data Request Standard Application and then retained for an additional project. This subdivision was also amended to replace a reference to GVRO with CARPOS. These amendments are necessary to allow Department staff to avoid inefficient and costly responses to new data requests that were previously compiled and requested by the applicant. Amendments also conform the proposed regulations to Penal Code section 14231.5, which authorizes researcher access to CARPOS data more generally, of which GVRO data is included.

**Subdivision (d) *new subdivision.*** This subdivision was inserted to clarify that data destruction requirements do not apply if a Bona Fide Researcher submits a renewal Data Request Standard Application. This amendment is necessary to prevent premature or unnecessary destruction of data for ongoing research projects.

The Authority and Reference note was amended to delete Civil Code section 1798.21, the IPA, and to insert Penal Code section 14240, the California Firearm Violence Research Act. This amendment is necessary to demonstrate the Department's mandate to furnish firearm data to certain research entities. This note was also nonsubstantively amended to make "section" plural and add "and" so the series is grammatically correct.

## **Article 5. Enforcement of Regulations**

### **§ 968. Enforcement of Regulations by Department.**

Section 968 outlines the Department's capabilities for enforcing this chapter.

**Subdivision (a).** This subdivision was amended to limit the scope of any possible inspection to determine compliance with the regulations and to ensure the security and protection of CARPOS data. This subdivision was also amended to require that, for the purposes of enforcing this chapter, prior written notice must be given to a Nonprofit Bona Fide Research Institution and that any inspection must occur at a mutually convenient time. These amendments limit application to De-Identified or Identified Individual-Level Data, rather than Aggregated Data. The amendments are necessary to balance the Department's legal obligation to ensure data security with an applicant's desire to avoid overly-burdensome and intrusive inspections. They

conform the proposed regulations to Penal Code section 14231.5, which permits researcher access to CARPOS data more generally, of which GVRO data is included; define accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations; and do not include public agencies as eligible recipients of CARPOS data.

**Subdivision (b) *new subdivision.*** This subdivision was inserted to require that the Research Center notify the Bona Fide Researcher of its findings within 10 business days following an inspection, to require the violation to be remedied within 30 days of receiving the Research Center's findings, and provides an option for a remedial plan and alternative timeframe to resolve the violation. These amendments are necessary to balance the Department's legal obligation to ensure data security with an applicant's desire to avoid overly-burdensome inspections or requirements that could impact research. The Department wanted to balance these obligations, while understanding that there may be some situations where it might take Nonprofit Bona Fide Research Institutions and Bona Fide Researchers longer than 30 days to remedy a violation. For instance, a Bona Fide Researcher may need to coordinate with, or rely upon, the Nonprofit Bona Fide Research Institution to remedy a violation. The Department understands that the Bona Fide Researchers may not be able to remedy all violations on their own, and did not want to be unreasonable by taking actions for non-compliance, which would interfere with the research. This subdivision was also amended to replace "Educational" with "Bona Fide Research" and to delete "or Public Agency." Amendments conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations and does not include public agencies as eligible recipients of CARPOS data.

**Subdivision (c) *formerly (b).*** This subdivision was amended to clarify the types of entities that may have their access to CARPOS data restricted and may be ordered to destroy CARPOS data in their possession as a result of violating these regulations. This subdivision was also amended to replace "Department" with "Research Center," insert the destruction of data as a consequence in order to discourage violations, nonsubstantively revise a verb tense, and to include the factors the Research Center would use in determining the consequence for non-compliance. These amendments mirror changes in section 967, which does not automatically require the destruction of data upon a project's conclusion. Amendments conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations. Additionally, it was necessary to give the Nonprofit Bona Fide Research Institutions and Bona Fide Researchers notice of how the Research Center would use its discretion in determining the consequence for non-compliance, so that should they be in that situation, they would have some expectation of the possible outcome.

**Subdivision (d) *new subdivision.*** This subdivision was inserted to emphasize that, despite the Department's right to inspect, the Nonprofit Bona Fide Research Institution is still responsible for securing data and otherwise complying with these regulations. This subdivision was also amended to replace "Educational" with "Bona Fide Research" and to delete "Public Agency." These amendments are necessary to ensure that the Nonprofit Bona Fide Research Institution continues to abide by regulations and protects PII in its possession. Amendments also conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations and does not include public agencies as eligible recipients of CARPOS data.

**Subdivision (e) *new subdivision.*** This subdivision was inserted to add an appeal process for any findings pursuant to the inspection or any enforcement actions taken in subdivision (c). The subdivision was amended to replace “Educational” with “Bona Fide Research” and to delete “Public Agency.” These amendments are necessary to balance the Department’s legal obligation to ensure data security with an applicant’s desire to avoid overly-burdensome inspections that could impact research and concerns about potential suppression of research. Amendments also conform the proposed regulations to Penal Code section 14231.5, which defines accredited nonprofit bona fide research institutions more narrowly than the originally-proposed regulations and does not include public agencies as eligible recipients of CARPOS data.

**Subdivision (e)(1) *new subdivision.*** This subdivision was inserted to stipulate that an appeal of the Research Center’s decision to restrict a Bona Fide Researcher’s access to data or to destroy data must be filed with the CJIS Chief within 10 calendar days of receiving the Research Center’s findings. This subdivision was also amended to provide an email address for the submission of an appeal. These amendments are necessary for the purpose of providing due process to an appellate in the event their access to data is restricted or they are ordered to destroy data. The 10-day specification ensures an appeal is filed within a timely manner, particularly given a finding that a Nonprofit Bona Fide Research Institution did not adequately secure CARPOS data. The inclusion of an email address ensures the Department will receive appeals in an expeditious, reliable, and documented manner. Amendments also rephrase the subdivision to avoid redundant language.

**Subdivision (e)(2) *new subdivision.*** This subdivision was inserted to allow the CJIS Chief or their designee to serve as the appeal officer and to collect information necessary for resolving an appeal in a timely manner. This amendment was necessary to describe the powers that the appeal officer has in collecting information or facts and setting the timeline for the evidence, given that some researchers may be concerned about delays. This amendment is necessary to allow the appeal officer the ability to collect information or facts that may aid them in considering the appeal, ensuring that the decision will be fair, that the appeals officer had access to and considered all relevant information and facts, and that due process was afforded to the parties. This amendment is necessary for the purpose of identifying a party to serve as the appeal officer who would not be involved in the initial decision to restrict a Bona Fide Researcher’s access to data or to destroy data.

**Subdivision (e)(3) *new subdivision.*** This subdivision was inserted to allow the appeal officer to request written responses to an appeal request, including a description of the entities that the appeal officer may ask to submit information or evidence, and to set such deadlines related to the submission of responses as the appeal officer deems necessary. This amendment is necessary for ensuring the appeal officer is empowered to gather all necessary information, allowing entities that may have information or be impacted by any decision an opportunity to submit a response, and for ruling on an appeal in a timely manner. This amendment was necessary to describe the powers that the appeal officer has in collecting information or facts and setting the timeline for the evidence, given that some researchers may be concerned about delays.

**Subdivision (e)(4) *new subdivision.*** This subdivision was inserted to describe the basis for the appeal officer’s decision, including the statutory and regulatory authority, facts, information, or evidence, and considering the balance of harms. This amendment is necessary to give clarity and

parameters as to how an appeal officer may make a decision, to clearly indicate to an appellant the process by which they may appeal a decision made by the Research Center, and to afford the parties due process.

**Subdivision (e)(5) *new subdivision*.** This subdivision was inserted to require an appeal officer to render their decision in writing within 30 calendar days of receiving an appeal. This amendment is necessary to ensure an appellant is afforded timely due process and to avoid disruptions to research in the event a decision regarding the findings or enforcement actions are overturned on appeal.

**Subdivision (e)(6) *new subdivision*.** This subdivision was inserted to establish finality to the appeal process by providing that an appeal officer's decision is final and may not be appealed further. This amendment is necessary for ensuring the timely resolution of administrative proceedings and to clearly indicate to an appellant the process by which they may appeal a decision made by the Research Center.

The Authority and Reference note was amended to delete Civil Code section 1798.21, the IPA, and to insert Penal Code section 14240, the California Firearm Violence Research Act. This amendment is necessary to demonstrate the Department's mandate to furnish firearm data to certain research entities. This note was also nonsubstantively amended to make "section" plural and add "and" so the series is grammatically correct.

### **CORRECTIONS AND NON-SUBSTANTIAL EDITS**

A "non-substantial change is one that clarifies without materially altering the requirements, rights, responsibilities, conditions or prescriptions contained in the original text." (Cal. Code Regs., tit. 1, § 40.) Changes without regulatory effect include renumbering or relocating a provision, revising structure, syntax, grammar or punctuation, and, subject to certain conditions, making a provision consistent with statute. (Cal. Code Regs., tit. 1, § 100.) The following minor changes were noted since publication of the Notice of Third Modifications to Proposed Rulemaking

1. Section 966, subdivision (j) was nonsubstantively renumbered to correct a duplicate subdivision (i).
2. Deleted an extra comma in Section 967, subdivision (a).
3. Corrected the spacing between words to have a single space. (See e.g., Section 964, subdivision (a), between "Data" and "as"; Section 968, subdivision (c), between "Team Member" and "may" and "restricted" and "access.")
4. In section 966, subdivision (b)(12)(D), the document title was deleted.
5. Section 965, subdivision (a), had a word change from "Research Center" to "Department," to clarify the correct entity to which the public records requests would be submitted as the Research Center handles data requests, and the Department handles public records requests. The change also conforms to subdivision (c), which already noted that the Department would be responding to such a request. This doesn't materially alter any requirements or responsibilities.

**SUMMARY OF COMMENTS AND DEPARTMENT RESPONSES**

On January 22, 2021, the Notice of Proposed Rulemaking was published in the California Regulatory Notice Register, sent to interested parties, and published on the Department’s website, available at <https://oag.ca.gov/research-center/regs#gvro>. The Notice was revised on February 19, 2021 to accommodate a request for a public hearing and again on March 11, 2021 to extend the public comment period. The Department received nine comment letters during the initial 45-day notice period. At the public hearing held on March 11, 2021, the Department heard comments from five individuals.

In August 2021, the Department revised the proposed regulations to implement several of the changes proposed during the initial 45-day public comment period. The Text of Proposed Regulations was modified on August 11, 2021, resulting in an additional 15-day public comment period that concluded on August 27, 2021. The Department received one comment letter during this modification period.

On October 29, 2021, the Department again revised the proposed regulations, commencing a second 15-day comment period that concluded on November 15, 2021. The Department did not receive any comment letters during this modification period.

On March 10, 2022, the Department again revised the proposed regulations, commencing a third 15-day comment period that concluded on March 27, 2022. The Department received one comment letter during this modification period.

In all three instances, the Notice of Modification was sent to interested parties and published on the Department’s website, available at <https://oag.ca.gov/research-center/regs#gvro>.

A summary of each public comment and the Department’s response to each public comment are attached as Appendix B.

**LOCAL MANDATE DETERMINATION**

The proposed regulation does not impose any mandate on local agencies or school districts.

**ALTERNATIVES DETERMINATION**

In accordance with Government Code section 111346.9, subdivision (a)(4), the Department has determined that no alternative it considered, or that it otherwise identified, or was brought to its attention, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department has determined that these proposed regulations are the most effective way to implement Penal Code sections 14231.5 and 14240, and its discretion to allow access to CARPOS data for Nonprofit Bona Fide Research Institutions immediately concerned with the study and prevention of violence for academic and policy Research Purposes.



**ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES**

The Department determines that the proposed regulations do not affect small businesses.

**DOCUMENTS INCORPORATED BY REFERENCE**

1. United States Department of Justice, CJIS Security Policy, Version 5.9, dated June 1, 2020.
2. United States Department of Justice, CJIS Requirements Companion Document to the FBI CJIS Security Policy Version 5.9, dated June 1, 2020.
3. FBI CJIS Appendix A Clouds Control Catalog.
4. NIST Special Publication 800-88, Revision 1, Guidelines for Media Sanitization, December 2014.

The above forms are incorporated by reference because it would be cumbersome, unduly expensive, or otherwise impractical to publish the forms in the California Code of Regulations. During the rulemaking proceeding, the forms were made available upon request, and were available for viewing on the Department's website.

**NON-DUPLICATION**

Some of the regulations may repeat or rephrase in whole or in part a state or federal statute or regulation. This was necessary to satisfy the clarity standard set forth in Government Code section 11349.1, subdivision (a)(3).