

## **TITLE 11. DEPARTMENT OF JUSTICE**

### **INITIAL STATEMENT OF REASONS FOR THE PROPOSED AMENDMENTS PERTAINING TO THE FINGERPRINT ROLLING CERTIFICATION PROGRAM**

#### **SPECIFIC PURPOSE OF THE REGULATION AMENDMENTS**

The Department of Justice (DOJ) seeks to amend regulations 994.2, 994.4, 994.5, 994.6, 994.9, 994.10, 994.11, 994.12, 994.13, 994.14, 994.15, and 994.16 to provide clearer guidelines to individuals who roll fingerprint impressions who are not exempt under Penal Code (PC) section 11102.1(2)(A)(B). Individuals who take fingerprint impressions for criminal offender record information (CORI) clearances for employment, licensing, and certification purposes must be certified.

#### **RATIONALE OF PROPOSED AMENDMENTS**

The provisions of these regulations implement, interpret, and make specific the mandate in PC section 11102.1 which became effective January 1, 2003. The mandate requires the DOJ to certify individuals who take fingerprint impressions for CORI clearances for employment, licensing, and certification purposes. Individuals who are law enforcement personnel, or who are state employees who have received training pertaining to applicant fingerprinting and have undergone a CORI background investigation are exempted from these regulations. These regulations also establish procedures for the application form and for the issuance of the required certification number and notification process. These regulations also set forth the appeal procedures if the application is denied, suspended, or revoked.

Due to the recent enactment of Senate Bill (SB) 174 (Chapter 35, Statutes of 2009), PC section 11102.1 was amended to delete the notarization requirement for an individual applying to become a certified fingerprint roller. Therefore, the related regulations pertaining to the Fingerprint Rolling Certification Program need to be updated for consistency, simplicity, and clearer guidelines for individuals who choose to become certified to provide fingerprinting services.

#### **Proposed amendment 1: Section 994.2**

- In subsection (b), the phrase: “and the subsequent automated background check and response” is removed for clarification purposes.
- In subsection (b), a “period [.]” is added for clarification purposes and to properly complete a sentence.
- In subsection (g), the phrase: “Chief Information Officer” is removed for clarification purposes.
- In subsection (i), the word and phrase: “or” and “the Department” is removed and replaced with the acronym “DOJ” for consistency purposes.

Specific purpose and rationale:

The proposed amendment is consistent with the recently chaptered legislative bill (SB 174), clarifying definitions, terms, and acronyms contained in these regulations. The proposed amendment does not change any definition. There is no policy or procedural change based on this amendment.

**Proposed amendment 2: Section 994.4**

- In the first paragraph, the phrase: “should contact the DOJ and request form” is removed for clarification purposes.
- In the first paragraph, the phrase: “can access the” is added for clarification purposes.
- In the first paragraph, the phrase: “(rev. 09/03)” is removed for clarification purposes.
- In the first paragraph, the phrase: “on the Attorney General’s website, located under the Fingerprint Submissions heading. Also on the Attorney General’s website are pre-certification materials that each applicant may review prior to submitting the application” is added for clarification and consistency purposes.
- In the first paragraph, the phrase: “The application form and a package of pre-certification materials will be forwarded” is removed for clarification purposes.
- Subsection (f) is removed to be consistent with recently passed legislation (SB 174), removing the requirement to have the application for certification of non-exempt individuals to take fingerprint impressions notarized. The application form BCIA 8372 will be modified and incorporated herein as reference.
- Subsection (g) is realphabetized to subsection (f) for consistency purposes.

Specific purpose and rationale:

The proposed amendment is non-substantive and is meant to reword, clarify, and simplify the application for certification of non-exempted individuals to take fingerprint impressions. There is no policy or procedural change based on this amendment.

**Proposed amendment 3: Section 994.5**

- In subsection (a), the phrase: “and notarized” is removed for consistency purposes.
- In subsection (b), the phrases: “two sets of fingerprints,” “either,” “applicant live scan,” “or manually,” and “the fingerprints must be taken by” are removed for clarification purposes.
- Subsections (b)(1), (b)(2), and (b)(3) are removed for clarification purposes.
- In subsection (b), the phrases: “his/her fingerprint impressions” and “electronic (live scan) capture” is added for clarification purposes.
- In subsection (b), a “period [.]” is added for clarification purposes and to properly complete a sentence.
- Subsection (c) is removed in its entirety.
- Subsection (d) is realphabetized to subsection (c) for consistency purposes. In subsection (c), the phrase: “The applicant shall also submit with his or her notarized application, a check or money order in the amount of \$81.00 made payable to the California

Department of Justice for the certification processing fee” is removed for clarification purposes.

- In subsection (c), the phrase: “All fees for the certification must be paid directly to the agency providing the live scan services. An additional fingerprint rolling fee will be collected” is added for clarification purposes.

Specific purpose and rationale:

The proposed amendment is consistent with the recently chaptered legislative bill (SB 174), removing the requirement to obtain a notarized signature and clarifies the DOJ’s procedures for submitting the application form BCIA 8372. There is no policy change based on this amendment. Subsection (d) was renumbered to subsection (c) for consistency and clarification purposes.

**Proposed amendment 4: Section 994.6**

- In subsection (a), the phrases: “a letter will be sent to the applicant stating the application has been accepted and the applicant is certified,” “The letter will include a certification number,” and the word “letter” is removed for clarification purposes.
- In subsection (a), the phrases: “The applicant will be notified that the application has been accepted and certified” and “notice, which will include the” is added for clarification purposes.
- In subsection (b), the phrase: “whether submitted manually or electronically” is removed for clarification purposes.
- In subsection (b), a “period [.]” is added for clarification purposes and to properly complete a sentence.

Specific purpose and rationale:

The proposed amendment is rewording, clarifying, and simplifying the DOJ’s certification and notification process. There is no policy change based on this amendment.

**Proposed amendment 5: Section 994.9**

- This section is removed in its entirety.

Specific purpose and rationale:

The proposed amendment is repealing the DOJ’s duplicate letter process, in order to simplify the Fingerprint Rolling Certification procedures. There is no policy change based on this amendment.

**Proposed amendment 6: ~~Section 994.10~~ Section 994.9**

- The section number has been renumbered to section 994.9 for consistency purposes.
- In subsection (a), the word: “Department” is removed and replaced with the acronym “DOJ” for consistency purposes.

- In subsection (b), the word: “Department” is removed and replaced with the acronym “DOJ” for consistency purposes.
- In subsection (b), the word: “letter” is removed and replaced with the word “notice” for consistency purposes.

Specific purpose and rationale:

The proposed amendment is updating the section number for consistency purposes and to clarify the word usage for uniformity throughout these regulations. There is no policy or procedural change based on this amendment.

**Proposed amendment 7: ~~Section 994.11~~ Section 994.10**

- The section number has been renumbered to section 994.10 for consistency purposes.
- In subsection (a), the word: “Department” is removed and replaced with the acronym “DOJ” for consistency purposes.
- In subsection (b), the word: “Department” is removed and replaced with the acronym “DOJ” for consistency purposes.
- In subsection (c), the word: “Department” is removed and replaced with the acronym “DOJ” for consistency purposes.
- In subsection (c), the phrase: “Attorney General” is removed and replaced with the word “Director” for clarification purposes.
- In subsection (d), the phrase: “Attorney General” is removed and replaced with the word “Director” for consistency purposes.
- In subsection (d), the word: “Department” is removed and replaced with the acronym “DOJ” for consistency purposes.
- In subsection (e), the word: “Department” is removed and replaced with the acronym “DOJ” for consistency purposes.
- In subsection (e), the word: “letters” is removed and replaced with the word “notices” for consistency purposes.

Specific purpose and rationale:

The proposed amendment is updating the section number for consistency purposes and to clarify the word usage for uniformity throughout these regulations. There is no policy or procedural change based on this amendment.

**Proposed amendment 8: ~~Section 994.12~~ Section 994.11**

- The section number has been renumbered to 994.11 for consistency purposes.
- In subsection (a), the word: “Department” is removed and replaced with the acronym “DOJ” for consistency purposes.
- In subsection (b), the word: “Department” is removed and replaced with the acronym “DOJ” for consistency purposes.
- In subsection (c), the word: “Department” is removed and replaced with the acronym “DOJ” for consistency purposes.

Specific purpose and rationale:

The proposed amendment is updating the section number for consistency purposes and to clarify the word usage for uniformity throughout these regulations. There is no policy or procedural change based on this amendment.

**Proposed amendment 9: ~~Section 994.13~~ Section 994.12**

- The section number has been renumbered to 994.12 for consistency purposes.
- In subsection (a), the word: “Department” is removed and replaced with the acronym “DOJ” for consistency purposes.
- In subsection (c), the word “Department” is removed and replaced with the acronym “DOJ” for consistency purposes.

Specific purpose and rationale:

The proposed amendment is updating the section number for consistency purposes and to clarify the word usage for uniformity throughout these regulations. There is no policy or procedural change based on this amendment.

**Proposed amendment 10: ~~Section 994.14~~ Section 994.13**

- The section number has been renumbered to 994.13 for consistency purposes.
- In the first paragraph, the word: “Department” is removed and replaced with the acronym “DOJ” for consistency purposes.

Specific purpose and rationale:

The proposed amendment is updating the section number for consistency purposes and to clarify the word usage for uniformity throughout these regulations. There is no policy or procedural change based on this amendment.

**Proposed amendment 11: ~~Section 994.15~~ Section 994.14**

- The section number has been renumbered to 994.14 for consistency purposes.

Specific purpose and rationale:

This section is renumbered for consistency and uniformity. There is no policy or procedural change based on this amendment.

**Proposed amendment 12: ~~Section 994.16~~ Section 994.15**

- This section has been renumbered to 994.15 for consistency purposes.

**Specific purpose and rationale:**

This section is renumbered for consistency and uniformity. There is no policy or procedural change based on this amendment.