

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO FLORIDA) CASE NO. SC10-1471
RULES OF CRIMINAL PROCEDURE)

RESPONSE TO COMMENTS OF INTERESTED PERSONS

The Criminal Procedure Rules Committee (the CPRC), by and through its Chair, Robert T. Strain, and John F. Harkness, Jr., Executive Director of The Florida Bar, file this response to comments received from interested persons to the 2010 Out-of-Cycle Report of the Florida Criminal Procedure Rules Committee to Amend Rules 3.111, 3.704, 3.720 and 3.986.

The comments of Steven Keith Foster, Esquire, were filed on behalf of Central Florida Crimeline. The comments of Edward P. Swan, Esquire, were filed on behalf of Crime Stoppers of the Treasure Coast. Both comments were identical in that they were limited to the proposed amendments to Florida Rules of Criminal Procedure Form 3.986 and noted the absence of an entry in rule 3.986(c) Form for Charges, Costs and Fees for the costs imposed by section 938.06, Florida Statutes. Both commenters requested the addition of a statutory reference in that portion of the form to reflect the costs imposed by section 938.06, Florida Statutes.

Section 938.06, Florida Statutes, in particular, imposes a court cost of \$20 upon persons convicted of any criminal offense that is forwarded to the Department of Revenue, minus service charges, for the Crime Stoppers Trust Fund

as provided in section 16.555, Florida Statutes. Section 938.06, Florida Statutes, became effective on July 1, 1998.¹ Including the present proceeding, Florida Rules of Criminal Procedure Form 3.986 has been amended 6 times after 1998 but has never included an entry or reference in the rule 3.986(c) Form for Charges, Costs and Fees for the costs imposed by section 938.06, Florida Statutes.² It appears that the collection of these costs for the Crime Stoppers Trust Fund has been handled, in part, by administrative orders entered by chief judges of the judicial circuits.³

In response to the comments, the CPRC notes that the amendments in this case became effective immediately upon the release of the Court's opinion of September 23, 2010. In re: Amendments to Florida Rules of Criminal Procedure, 35 Fla. L. Weekly S516 (Fla. Sept. 23, 2010). Consequently, it is respectfully recommended that any consideration of additional amendments to rule 3.986(c) Form for Charges, Costs and Fees, for the costs imposed by section 938.06, Florida

¹Laws 1998, c. 98-319, § 1, eff. July 1, 1998. Amended by Laws 2001, c. 2001-122, § 22, eff. March 1, 2002; Laws 2003, c. 2003-402, § 125, eff. July 1, 2004; Laws 2010, c. 2010-162, § 31, eff. July 1, 2010.

²Nov. 2, 2000, effective Jan. 1, 2001 (794 So.2d 457); Oct. 7, 2004, effective Jan. 1, 2005 (886 So.2d 197); Nov. 20, 2008 (998 So.2d 1128); Sept. 10, 2009 (22 So.3d 1); Nov. 19, 2009, effective Jan. 1, 2010 (26 So.3d 534); Sept. 23, 2010 (2010 WL 3701323).

³See, e.g., Amended Administrative Order No. 2009-02, Fourth Judicial Circuit in Duval, Clay and Nassau Counties, Florida (First Coast Crime Stoppers Assessment of Cost by Clerk's Office; January 29, 2009).

Statutes, or for any other costs imposed by statute not currently itemized in the form, be subject to a new referral for CPRC's consideration under Florida Rule of Judicial Administration 2.140.

Respectfully submitted on this 13th day of December by

/s/ Robert T. Strain
Robert T. Strain, Chair
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/s/ John F. Harkness, Jr.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished by United States Mail to Steven Keith Foster, Esq., P.O. Box 1673, Orlando, Florida 32802-1673 and Edward P. Swan, Esq., 2655 South Le Jeune Road PH 1C, Coral Gables, Florida, 33134-5827 this 13th day of December, 2010.

CERTIFICATE OF COMPLIANCE

I certify that this response was prepared in accordance with the font requirements of Fla. R. App. P. 9.210(a)(2).

/s/ Krys Godwin
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