

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. 2016-006 PI-CIR

RE: PROCEDURES FOR RETURN OF FIREARMS – PINELLAS COUNTY

Section 933.14(3), Florida Statutes, provides that no firearm seized by law enforcement with a search warrant or without a search warrant upon view by an officer of a breach of the peace shall be returned except upon court order. It is necessary for the efficient administration of justice to establish a uniform procedure in Pinellas County for determining the appropriateness of ordering the return of firearms taken by law enforcement under section 933.14(3), Florida Statutes, where no arrest was made and no charges were filed.

In order to provide for the timely and uniform disposition of petitions for the return of firearms within Pinellas County, and in accordance with Article V, section 2, Florida Constitution, Rule of Judicial Administration 2.215, and section 43.26, Florida Statutes, it is

ORDERED:

1. Any person who seeks the return of a firearm seized by law enforcement under section 933.14(3), Florida Statutes, where no arrest was made and no case was filed must file a Petition for Return of Firearm(s) with the Clerk of Court. The petition must be sworn and must be served on the law enforcement agency in possession of the firearm(s). A form Petition for Return of Firearm(s) is attached to this administrative order as Attachment A.

2. All Petitions for Return of Firearm(s) must specifically identify the firearm(s) and/or ammunition sought to be returned and must further allege that (1) the firearm(s) and/or ammunition is/are the petitioner's personal property; (2) the firearm(s) and/or ammunition is/are not the fruit of criminal activity and was/were not involved in criminal activity; (3) the firearm(s) and/or ammunition is/are not being held as evidence by the relevant law enforcement agency; (4) the petitioner is not prohibited from possessing a firearm under any provision of Florida or federal law, including 18 U.S.C. 922(g)(9); (5) the petitioner has not been convicted of a misdemeanor crime of domestic violence, and has not had adjudication of guilt withheld or the imposition of a sentence suspended on any misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the relevant court have been fulfilled or expunction has occurred; (6) the petitioner is not prohibited from possessing a firearm and/or ammunition pursuant to the terms of any pretrial release, bond, probation, or any other type of community supervision or court program; (7) the petitioner has not been Baker Acted as a result of this incident or otherwise. If the petitioner has been Baker Acted, the petitioner will provide the Judge with a copy of the documents furnished to the petitioner or the petitioner's representative by the facility, upon or after discharge of the petitioner from the facility, which contain any evaluations, diagnoses, prognoses, recommended course of treatment, and recommended or prescribed medications; (8) the petitioner does not have an active Domestic Violence Injunction or a Repeat Violence Injunction against him/her; (9) the petitioner has not been adjudicated mentally defective as defined by section 790.065(2)(a)4.a., Florida Statutes, or if the petitioner has been adjudicated mentally defective, the petitioner has had his or her

capacity restored by a court for at least 5 years from the date of the Petition for Return of Firearm(s); and (10) the petitioner has not been committed to a mental institution as defined in section 790.065(2)(a)4.b., Florida Statutes, or if the petitioner has been committed to a mental institution, the petitioner possesses a certificate from a licensed psychiatrist that he or she has not suffered from a mental disability for at least 5 years since the commitment to a mental institution.

3. The petitioner must attach to the petition a copy of the agency report detailing the circumstances which led to the taking of the firearm(s).

4. All Petitions for Return of Firearm(s) in Pinellas County shall be assigned to Division J.

5. To obtain a hearing on a petition, the petitioner must contact the Division J judicial assistant to be assigned a hearing date. Once assigned a hearing date, the petitioner is responsible for preparing a notice of hearing and serving it on the law enforcement agency in possession of the firearm(s) no less than 14 days prior to the hearing date. The notice shall be hand delivered or sent via certified mail to the law enforcement agency. A form notice of hearing is attached to this administrative order as Attachment B.

6. Should the petitioner and the law enforcement agency stipulate to the return of the firearm(s) without a hearing, a proposed order authorizing the release of the firearm(s) must accompany the stipulation. A form proposed order is attached to this administrative order as Attachment C.

DONE AND ORDERED in Chambers at St. Petersburg, Pinellas County, Florida this ____ day of February, 2016.

ORIGINAL SIGNED ON FEBRUARY 18, 2016
BY ANTHONY RONDOLINO, CHIEF JUDGE

Attachment A: Petition for Return of Firearm(s)

Attachment B: Notice of Hearing

Attachment C: Order on Petition for Return of Firearm(s)

cc: All Judges
The Honorable Bernie McCabe, State Attorney
The Honorable Bob Dillinger, Public Defender
The Honorable Ken Burke, Clerk of the Circuit Court, Pinellas County
The Honorable Bob Gaultieri, Sheriff, Pinellas County
Gay Inskeep, Trial Courts Administrator
Ngozi Acholonu, Assistant Regional Counsel
Bar Associations, Pasco and Pinellas Counties
Law Libraries, Pasco and Pinellas Counties
Pinellas County Law Enforcement

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA IN AND FOR PINELLAS COUNTY
CRIMINAL DIVISION**

_____,
Petitioner,

Case Number: _____

v.

_____,
Respondent (Law Enforcement Agency).

PETITION FOR RETURN OF FIREARM(S)

COMES NOW, Petitioner, _____, and hereby
(Petitioner's printed name)
requests an order directing Respondent to return his/her firearm(s) and/or ammunition and as
grounds would state as follows:

1. On _____, the _____ took the following firearm(s)
(Date) (Law enforcement agency)
and/or ammunition:

(Specifically identify the firearm(s) and/or ammunition sought to be returned, including the make, model,
caliber, and/or gauge of each firearm and the amount and type of ammunition. Attach a separate sheet, if
necessary.)

2. I have attached a copy of agency report _____ from the
(Agency report number)
_____ that describes the circumstances leading to the
(Law enforcement agency)
taking of the above property.
3. The firearm(s) (and, if applicable, ammunition) is/are my personal property. I have
included copies of any supporting documentation.
4. The firearm(s) and/ or ammunition is/are not the fruit of criminal activity and was/were
not involved in criminal activity.
5. The firearm(s) and/or ammunition is/are not being held as evidence by the law
enforcement agency.
6. To the best of my knowledge, _____ located at
(Law enforcement agency)

_____ is in possession of the firearm(s) and/or
(Address of law enforcement agency)
ammunition.

7. I am not prohibited from possessing a firearm and/or ammunition under any provision of Florida or federal law.
8. I have not been convicted of a misdemeanor crime of domestic violence, and I have not had adjudication of guilt withheld or imposition of sentence suspended on any misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred.
9. I am not prohibited from possessing a firearm and/or ammunition pursuant to the terms of any pretrial release, bond, probation, or any other type of community supervision or court program.
10. I was/was not (*circle one*) Baker Acted as a result of this incident or otherwise. (Note: If the petitioner has been Baker Acted, the petitioner must provide the Judge with a copy of the documents furnished to the petitioner or the petitioner's representative by the facility, upon or after discharge of the petitioner from the facility, which contain any evaluations, diagnosis, prognoses, recommended course of treatment, and recommended or prescribed medications.)
11. I do not have an active Domestic Violence Injunction or a Repeat Violence Injunction against me.
12. I do not have a Domestic Violence Injunction or a Repeat Violence Injunction pending against me.
13. I have not been adjudicated mentally defective as defined by section 790.065(2)(a)4.a., Florida Statutes, or if I had been adjudicated mentally defective, I have had my capacity restored by a court for at least 5 years from today's date.
14. I have not been committed to a mental institution as defined in section 790.065(2)(a)4.b., Florida Statutes, or if I had been committed to a mental institution, I possess a certificate from a licensed psychiatrist that I have not suffered from a mental disability for at least 5 years since the commitment to a mental institution.
15. My date of birth is: _____.
(Date of birth)

WHEREFORE, Petitioner requests that the Court order Respondent to return the above firearm(s) and/or ammunition to Petitioner.

Under penalties of perjury, I declare that I have read this petition and that the statements in it are true and correct.

Signed this _____ day of _____, 20_____.

(Petitioner's signature)

(Petitioner's printed name)

(Petitioner's address)

(Petitioner's city, state, zip code)

(Petitioner's telephone number)

(Petitioner's e-mail address, if applicable)

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Petition for Return of Firearm(s) has been furnished to Respondent, _____,
(Law enforcement agency)

(Address of law enforcement agency)
by U.S. mail or by hand delivery to the law enforcement agency's front desk on this _____ day of _____, 20_____.

(Petitioner's signature)

(Petitioner's printed name)

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA IN AND FOR PINELLAS AND PASCO COUNTIES
CRIMINAL DIVISION**

_____,
Petitioner,

Case Number: _____

v.

_____,
Respondent (Law enforcement agency).

NOTICE OF HEARING

TO: _____
(Name, legal counsel)

(Law enforcement agency)

(Street address)

(City, State, Zip)

YOU ARE HEREBY NOTIFIED that the Petitioner's Petition for Return of Firearm(s) has been scheduled for a hearing before the Honorable _____, in
(Judge name)
Courtroom _____ at the _____, on the _____ day
(Courtroom number) (Courthouse name) (Day)
of _____, 20____, at ____:____ **a.m. / p.m.** or as soon thereafter as may be heard.
(Month) (Year) (Time) (Circle one)

DATED this _____ day of _____, 20____.

Respectfully submitted,

(Petitioner's signature)

Copies furnished to:

(Petitioner's printed name)

Courtesy copy to Judge

(Petitioner's address)

(Law enforcement agency)

(Petitioner's city, state, zip code)

(Petitioner's telephone number)

(Petitioner's e-mail address, if applicable)

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA IN AND FOR PINELLAS COUNTY
CRIMINAL DIVISION**

_____,
Petitioner,

Case Number: _____

v.

_____,
Respondent (Law Enforcement Agency).

ORDER ON PETITION FOR RETURN OF FIREARM(S)

THIS CAUSE came before the Court on Petitioner's Petition for Return of Firearm(s). The Court having reviewed the Petition, taken testimony, heard argument, and being otherwise fully advised in the premises, it is:

ORDERED AND ADJUDGED that Petitioner's Petition for Return of Firearm(s) is hereby **GRANTED / DENIED** as to the following firearm(s):

1. _____
2. _____
3. _____
4. _____
5. _____

DONE AND ORDERED in _____, _____
County, this ____ day of _____, 20__.

Circuit Court Judge

Copies furnished to:
Petitioner
Respondent