

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT,  
OF THE STATE OF FLORIDA, IN AND FOR HERNANDO COUNTY**

**AL NIENHUIS, as Sheriff of  
Hernando County, Florida,**

**CASE NO.:**

**Petitioner,**

**vs.**

**JAMES ADKINS, CHAIRMAN  
Board of County Commissioners;  
DIANE ROWDEN, VICE-CHAIRMAN  
Board of County Commissioners;  
NICK NICHOLSON, COMMISSIONER  
Board of County Commissioners;  
WAYNE DUKES, COMMISSIONER  
Board of County Commissioners;  
LEONARD SOSSAMON, County Administrator  
Hernando County;  
PAMELA LEE, Budget Analyst ,**

**Respondents.**

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**PETITION FOR WRIT OF MANDAMUS**

Petitioner, Al Nienhuis, Sheriff, by and through its undersigned counsel, pursuant to Rule 1.630, Fl. R. Civ. P., files this Petition for Writ of Mandamus seeking the issuance of a writ directed to Respondents, James Adkins, Chairman

Board of County Commissioners, Nick Nicholson, Commissioner, Board of County Commissioners, Diane Rowden, Vice Chairman, Board of County Commissioners, Wayne Dukes, Commissioner, Board of County Commissioners, Leonard Sossamon, County Administrator, Pamela Lee, Budget Analyst, and Hernando County, and in support thereof states as follows:

### **BASIS FOR INVOKING JURISDICTION**

1. Jurisdiction is vested in this Court pursuant to Article V, Section 5 of the Constitution of the State of Florida.

### **NATURE OF RELIEF SOUGHT**

2. This is a Petition for Writ of Mandamus seeking the issuance of a writ directing Respondents to comply with Florida Statute § 30.49(4) in providing written notice of its action to the Sheriff and specifying the specific items amended, modified, increased, or reduced by the Board of County Commissioners on September 20, 2016.
3. Respondents, James Adkins, Nick Nicholson, Diane Rowden, and Wayne Dukes are County Commissioners and constitute the Board of County Commissioners, for Hernando County Florida, and in such capacity are the people responsible, after all legal requirements of the Hernando County

Board of County Commissioners and the Office of Management and Budget have been met regarding yearly budgeting requirements prescribed under Chapter 129, Chapter 200, and Chapter 30 Florida Statutes for performing the legal and ministerial duties of notifying the Sheriff in written form of their decision to amend, modify, increase or reduce the Sheriff's budget.

4. Respondent, Leonard Sossamon is the County Administrator and is named as a Respondent herein because he or persons working under his supervision have taken or have refused to take certain actions regarding the subject matter of this action and are interested parties herein.
5. Respondent, Pamela Lee, is the Budget Analyst responsible for the budget process in Hernando County and is named as a Respondent herein because she or persons working under her supervision have taken or have refused to take certain actions regarding the subject matter of this action and are interested parties herein.
6. Hernando County was, at all times relevant to the subject matter hereof and now is a County of the State of Florida.
7. Petitioner, Al Nienhuis, Sheriff, is the Sheriff of Hernando County Florida and requires notice under Chapter 30 to allow for adequate financial planning and coordination with the Clerk of Court regarding monthly budgetary payments for costs and expenses.

### **FACTS ON WHICH PETITIONERS RELY**

8. Petitioner, while statutorily entitled to the notice under Chapter 30.49(4), Florida Statutes without further action, submitted a request for public records on September 21, 2016 requesting various public records, including the written notice which is the subject of this Petition. A copy of which is attached as *Exhibit A*.
9. To date, said notice has not been provided, despite three (3) written requests for such documentation. Copies of the second and third requests are attached as *Composite Exhibit B*.
10. While not required, Petitioner, in an effort to mitigate delays, has provided Respondents with two (2) written examples of how to comply with Respondents statutory obligations. Those neighboring jurisdictional examples are attached as Composite Exhibit C with the accompanying emails.
11. Despite the mandates of Florida Statute §30.49(4), Respondents have failed to produce any written notice.
12. Respondents are mandated by law and have no discretion in providing the written notice under Chapter 30, Florida Statutes.

13. The Clerk of Court has contacted Petitioner's office seeking verification regarding financial draw requirements for Fiscal Year 2016-2017
14. Petitioner is unable to verify beyond supposition true and accurate figures to report in response to requests from the Clerk of Court.
15. Petitioner has exhausted all administrative remedies.
16. Petitioner has no adequate remedy at law absent the granting of this Petition.
17. Petitioner has a right as a matter of law to the written notice described herein.

### **ARGUMENT**

Mandamus is an appropriate remedy to compel the performance of a ministerial act that an agency has a clear duty to perform. See, *State ex rel. Buckwalter v. City of Lakeland*, 150 S. 508, 511 (Fla. 1933). A duty or act is defined as ministerial when there is no room for the exercise of discretion, and the performance being required is directed by law: See, e.g. *Shulmister v. City of Pompano Beach*, 798 So. 2d 799 (Fla. 4th DCA 2001). See also, *Eastmoore v. Stone*, 265 So. 2d 517 (Fla. 1st DCA 1972). (Mandamus lies to compel performance of a legal, ministerial duty, but not a duty which is discretionary or judgmental.) Respondents duty to provide written notice to the Sheriff is ministerial as it is mandated by F.S. §30.49(4) which states in relevant part "The board or commission must give written notice of its action to the sheriff and

specify in such notice the specific items amended, modified, increased, or reduced.” *Emphasis added*. It states further “The budget must include the salaries and expenses of the sheriff’s office, cost of operation of the county jail, purchase, maintenance and operation of equipment, including patrol cars, radio systems, transporting prisoners, court duties, and all other salaries, expenses, equipment, and investigation expenditures of the entire sheriff’s office for the previous year”  
id. Mandamus is appropriate to compel Hernando County and its Respondent representatives to complete the written notice contemplated above. See *Lamphear v. Wiggins*, 546 So. 2d 1183 (Fla. 5th DCA 1989). (Finding mandamus would lie to compel city officials to issue documentation stating that property met zoning requirements for use requested.)

While Petitioner has exhausted administrative remedies, such full and complete exhaustion is not necessary. Administrative remedies need not be exhausted for a valid claim for mandamus to exist. See *Coastal Recovery Centers, Inc. v. Matthews*, 696 So. 2d 1364 (Fla. 2d DCA 1997).

**WHEREFORE**, Petitioner, Al Nienhuis, Sheriff, petitions the Court to issue an Alternative Writ of Mandamus commanding the Respondents James Adkins, Chairman Board of County Commissioners, Nick Nicholson, Commissioner, Board of County Commissioners, Diane Rowden, Vice Chairman, Board of County Commissioners, Wayne Dukes, Commissioner, Board of County

Commissioners, Commissioner, Board of County Commissioners, Leonard Sossamon, County Administrator, Pamela Lee, Budget Analyst, and Hernando County, to perform their ministerial duty of providing written notice without further delay and to pay Petitioners the cost of this action or in default of such performance, to appear in person before this Court on a day certain to be named in such Writ and further to show cause why they should not be required to do so by issuance by this Court of a peremptory Writ of Mandamus.

AL NIENHUIS,  
SHERIFF OF HERNANDO COUNTY


By: 

Joel D. Fritton, Esq.  
Counsel for Sheriff  
18900 Cortez Boulevard  
Brooksville, FL 33312  
Telephone: (954) 831-8920  
Fla. Bar No. 121355

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the James Adkins, Board of County Commissioners, 20 North Main Street, Room 263 Brooksville, FL 34601, Nick Nicholson, Board of County Commissioners, 20 North Main Street, Room 263 Brooksville, FL 34601, Diane Rowden, Board of County Commissioners, 20 North Main Street, Room 263 Brooksville, FL 34601, Wayne Dukes, Board of County Commissioners, 20 North Main Street, Room 263 Brooksville, FL 34601,; Leonard Sossamon, County Administrator, 20 North Main Street, Room 263 Brooksville, FL 34601,; Pamela Lee, Budget Analyst, 20 North Main Street, Room 263 Brooksville, FL 34601, by US Mail and via electronic mail at:

[JAdkins@hernandocounty.us](mailto:JAdkins@hernandocounty.us); [DRowden@hernandocounty.us](mailto:DRowden@hernandocounty.us); [NNicholson@hernandocounty.us](mailto:NNicholson@hernandocounty.us); [WDukes@hernandocounty.us](mailto:WDukes@hernandocounty.us); [PLee@hernandocounty.us](mailto:PLee@hernandocounty.us); [LSossamon@hernandocounty.us](mailto:LSossamon@hernandocounty.us); this 30 day of September, 2016.

  
\_\_\_\_\_  
Joel D. Fritton, Esq.





## Hernando County Sheriff's Office

September 21, 2016

**VIA ELECTRONIC MAIL AND HAND DELIVERY**

Board of County Commissioners  
20 North Main Street, Room 263  
Brooksville, FL 34601

**Attn:** Commissioner Nick Nicholson  
[NNicholson@hernandocounty.us](mailto:NNicholson@hernandocounty.us)  
Commissioner Diane Rowden  
[DRowden@hernandocounty.us](mailto:DRowden@hernandocounty.us)  
Commissioner Wayne Dukes  
[wdukes@hernandocounty.us](mailto:wdukes@hernandocounty.us)  
Commissioner James Adkins  
[jadkins@hernandocounty.us](mailto:jadkins@hernandocounty.us)  
Commissioner Jeff Holcomb - VIA EMAIL ONLY  
[jholcomb@hernandocounty.us](mailto:jholcomb@hernandocounty.us)  
Garth Collier, Esq., County Attorney  
[GarthC@hernandocounty.us](mailto:GarthC@hernandocounty.us)  
Pam Lee, Budget Management Analyst  
[plee@hernandocounty.us](mailto:plee@hernandocounty.us)  
Leonard Sossaman, County Administrator  
[LSossamon@hernandocounty.us](mailto:LSossamon@hernandocounty.us)  
Jerry Haines, Human Resource Manager  
[JerryH@hernandocounty.us](mailto:JerryH@hernandocounty.us)

**RE: REQUEST FOR PUBLIC RECORDS PURSUANT TO CHAPTER 119, FLORIDA STATUTES**

Pursuant to §§119.01, 119.07(1) (a), 119.011(12) Florida Statutes, the undersigned hereby requests a **digital copy** of, and the ability to inspect the following:

1. Copies of all detailed 2016 budget notes kept in the Finance Plus system or any other program or format, whether digital, typed, or handwritten.
2. A copy of the Sheriff's FY 2016-2017 approved final budget in accordance with and pursuant to the dictates of F.S. § 30.49.
3. Copies of all personnel records regarding employees hired on or after May 1, 2016, to include records depicting salary upon hire, hire date, and/or title *and* any records

documenting independent contractors contracted after May 1, 2016 including those hired through a staffing agency.

If the custodian asserts that any of the subject records are exempt from inspection and examination, please state the basis of the exemption which they contend is applicable to the records, including the statutory citation to an exemption created or afforded by statute, and pursuant to § 119.07(2) (a), Florida Statutes, please state in writing and with particularity the reasons for the conclusion that the record is exempt. If the custodian asserts that a portion of the record is exempt, please produce the remainder of such record for inspection and examination deleting or excising from the record only that portion of the record with respect to which an exemption has been asserted.

These records may be produced when partially available for fulfillment, rather than waiting until all are available for fulfillment at one time. If fulfillment of this request exceeds \$50.00, please contact me prior with a cost estimate. Thank you for your cooperation. If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,



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Joel D. Fritton, Esquire  
Counsel for the Sheriff  
Hernando County, Florida

**Edwards, Nichole**

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**From:** McClanahan, Terri  
**Sent:** Monday, October 10, 2016 1:41 PM  
**To:** Fritton, Joel  
**Subject:** FW: Sheriff's Monthly Draw  
**Attachments:** image001.png; image002.jpg; image003.jpg; image004.jpg

Terri McClanahan, CGFO, CDM  
**Comptroller**  
**Hernando County Sheriff's Office**  
PO Box 10070  
Brooksville, FL 34603-0070  
(352) 797-3611  
(352) 797-3610 fax  
[tmclanahan@hernandosheriff.org](mailto:tmclanahan@hernandosheriff.org)



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**From:** Nienhuis, Al  
**Sent:** Tuesday, September 27, 2016 4:02 PM  
**To:** Fritton, Joel; Maurer, Mike; McClanahan, Terri; Moyer, Brian  
**Subject:** Fwd: Sheriff's Monthly Draw

Sent from my Verizon 4G LTE smartphone

----- Original message -----

**From:** James Adkins <[JAdkins@hernandocounty.us](mailto:JAdkins@hernandocounty.us)>  
**Date:** 9/27/16 3:59 PM (GMT-05:00)  
**To:** "Nienhuis, Al" <[anienhuis@hernandosheriff.org](mailto:anienhuis@hernandosheriff.org)>  
**Subject:** Re: Sheriff's Monthly Draw

Sheriff  
Thank you

Sent from my iPhone

On Sep 27, 2016, at 2:10 PM, Nienhuis, Al <[anienhuis@hernandosheriff.org](mailto:anienhuis@hernandosheriff.org)> wrote:

Chairman Adkins:

Please see the email, below, from the Hernando County Clerk of Court and Comptroller.

I have also attached another format, one that I believe is a little cleaner than the one I sent Saturday afternoon (and more like what I am used to seeing).

I hope the attached helps.

Thank you in advance for your assistance in this matter.

Feel free to let us know immediately if you have (or your staff has) any questions or concerns.

*Sheriff Al Nienhuis*

P.O. Box 10070  
Brooksville, FL 34603-0070  
Voice: 352-754-6830  
Fax: 352-796-0493

<image003.jpg>

Or visit us on the web:

<image004.jpg>

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**From:** McClanahan, Terri  
**Sent:** Tuesday, September 27, 2016 1:57 PM  
**To:** Nienhuis, Al  
**Cc:** Maurer, Mike; Moyer, Brian; Fritton, Joel  
**Subject:** FW: Sheriff's Monthly Draw

Sheriff,

The Clerk's Office needs our FY2017 Draw Request in order to process the October draw before the end of the week. Have you received the budget notice from the county yet?

Terri McClanahan, CGFO, CDM  
**Comptroller**  
**Hernando County Sheriff's Office**  
PO Box 10070  
Brooksville, FL 34603-0070  
(352) 797-3611



(352) 797-3610 fax  
[tmclanahan@hernandosheriff.org](mailto:tmclanahan@hernandosheriff.org)

<image002.jpg>

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**From:** Dianne Greer [<mailto:dgreer@hernandoclerk.org>]  
**Sent:** Monday, September 26, 2016 8:07 AM  
**To:** McClanahan, Terri  
**Subject:** Sheriff's Monthly Draw

Good Morning Terri:

Can you please prepare and send me the Sheriff's Draw for FY16/17 ?

Missed seeing you Thursday night.

Thanks,

***Dianne M Greer***

Accounts Payable Contract Compliance Auditor  
Financial Services Department  
Hernando County Clerk of Court and Comptroller  
20 N Main Street Room 230  
Brooksville, FL 34601

Phone: (352) 293-2959

<image001.png>  
[dgreer@hernandoclerk.org](mailto:dgreer@hernandoclerk.org)

**NOTICE:**

All Hernando County Clerk email addresses are changing to use the "[hernandoclerk.org](http://hernandoclerk.org)" email domain.

**This users new email address is: [dgreer@hernandoclerk.org](mailto:dgreer@hernandoclerk.org)**

Please Update your Records Accordingly

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Please note: Florida has a very broad Public Records Law. Most written communications to or from the Clerk's Office are public records available to anyone upon request. Your e-mail, including your e-mail address, may therefore, be subject to public disclosure.

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Please note: Florida has a very broad Public Records Law. Most written communications to or from the Hernando County Sheriff's Office are public records available to anyone upon request. Your e-mail, including your e-mail address, may therefore, be subject to public disclosure.

<Pasco BOCC FY 2016 Budget Approval Letter.pdf>



**Hernando County Sheriff's Office**

September 23, 2016

Commissioner James Adkins  
20 N. Main Street, Room 263  
Brooksville, FL 34601  
[jadkins@hernandocounty.us](mailto:jadkins@hernandocounty.us)

Chairman Adkins:

October 1st is fast approaching and, with it, the beginning of our 2016/2017 budget year. I would like to request the written notice required under section 30.49(4), Florida Statutes for the action taken Tuesday September 20, 2016 at the Board's evening Budget Hearing. The above section states, in part, "...The board or commission must give written notice of its action to the Sheriff and specify in such notice the specific items amended, modified, increased, or reduced...."

While awaiting the production of the Written Notice, we would like to withdraw our request to speak at the September 27<sup>th</sup> Board Meeting and move our time slot to the October 11<sup>th</sup> Board Meeting.

Please, as always, feel free to contact me or my staff if you have any questions, comments or concerns.

Respectfully,

A handwritten signature in blue ink that reads "Al Nienhuis".

Al Nienhuis, Sheriff  
Hernando County

CC:  
Commissioner Nick Nicholson  
Commissioner Diane Rowden  
Commissioner Wayne Dukes  
Commissioner Jeff Holcomb - VIA EMAIL ONLY  
Leonard Sossaman, County Administrator



# PASCO COUNTY, FLORIDA

*"Bringing Opportunities Home"*

DADE CITY (352) 523-2411  
 LAND O' LAKES (813) 996-2411  
 NEW PORT RICHEY (727) 847-8115  
 FAX (727) 815-7010

COUNTY ADMINISTRATOR'S OFFICE  
 WEST PASCO GOVERNMENT CENTER  
 8731 CITIZENS DRIVE, SUITE 340  
 NEW PORT RICHEY, FL 34654-5598  
 E-MAIL: [pcadmin@pascocountyfl.net](mailto:pcadmin@pascocountyfl.net)

September 25, 2015

VIA COURIER

The Honorable Chris Nocco  
 Pasco County Sheriff  
 West Pasco Govt. Complex  
 8700 Citizens Drive  
 New Port Richey, FL 34654

Dear Sheriff Nocco:

This is to advise you that per the Board of County Commissioners (BCC) action on September 22, 2015, your budget for Fiscal Year (FY) 2016 is as follows:

Law Enforcement Expenditure Category	Requested Law Enforcement	BCC Submitted* Law Enforcement	Approved** Law Enforcement	Modification From Request
Salary of the Sheriff	\$ 153,923	\$ 153,923	\$ 153,923	
Salaries of Deputies and Assistants	54,552,160	51,787,763	54,552,160	
Expenses other than Salaries	10,929,437	9,872,992	10,929,437	
Investigations	205,400	205,400	205,400	
Capital	386,778	875,304	386,778	
<b>Totals</b>	<b>\$66,227,698</b>	<b>\$62,895,382</b>	<b>\$66,227,698</b>	<b>\$0.00</b>

Detention Expenditure Category	Requested Detention	BCC Submitted* Detention	Approved** Detention	Modification From Request
Salary of the Sheriff				
Salaries of Deputies and Assistants	\$23,468,427	\$23,293,220	\$23,468,427	
Expenses other than Salaries	9,722,625	9,493,885	9,722,625	
Investigations				
Capital	1,099,230	1,102,530	1,099,230	
<b>Totals</b>	<b>\$34,290,282</b>	<b>\$33,889,635</b>	<b>\$34,290,282</b>	<b>\$0.00</b>



Bailiffs Expenditure Category	Requested Bailiffs	BCC Submitted* Bailiffs	Approved** Bailiffs	Modification From Request
Salary of the Sheriff				
Salaries of Deputies and Assistants	\$3,463,440	\$3,309,354	\$3,463,440	
Expenses other than Salaries Investigations	204,650	203,650	204,650	
Capital			98,700	\$98,700
Totals	\$3,668,090	\$3,513,004	\$3,766,790	\$98,700
Totals	<u>\$104,186,070</u>	<u>\$100,298,021</u>	<u>\$104,284,770</u>	<u>\$98,700</u>

\*Based on the FY 2015 budget, less \$1,534,000 for reserves plus requested capital items of \$386,778 and \$1,099,230, plus \$2,686,352 added to Salaries of Deputies and Assistants for 50% allocation of new property tax growth.

\*\*Based on the FY 2016 requested plus \$98,700 for X-ray machines.

In addition, a Corrections Deputy for the Inmate Work Program (\$74,972), the Detective for the Unlicensed Contractor Pilot Program (\$87,286), and the Consolidated Public Safety Lieutenant (\$119,812) are funded in various portions of the BCC Budget and will be disbursed as separate items.

Finally, the Penny for Pasco budget for FY 2016 allocated to the Sheriff is \$1,342,957. This is the same number provided in earlier correspondence.

Should you have any questions in this matter or require additional information, please contact the Office of Management and Budget at (727) 847-8980.

Sincerely,



Heather Grimes  
 Assistant County Administrator (Internal Services)

HG/DR/sm

cc: Board of County Commissioners  
 Michele L. Baker, County Administrator  
 Kathy Johnson, Accounts Payable





# Alachua County Board of County Commissioners

Charles "Chuck" Chestnut, IV, *Chair*  
Robert "Hutch" Hutchinson, *Vice Chair*  
Mike Byerly  
Ken Cornell  
Lee Pinkoson

Administration  
Dr. Lee A. Niblock, CM  
County Manager

RECEIVED

OCT - 2 2015

September 29, 2015

The Honorable Sadie Damell  
Sheriff, Alachua County  
PO Box 5489  
Gainesville, FL 32627-5489

Re: Sheriff's Budget Allocation FY 2016

Dear Sheriff Damell:

On September 22, 2015, the Alachua County Board of County Commissioners held its final budget hearing to establish the millage rates and budgets for County FY 2016. At that time, the Board adopted a budget allocation for your office that, while representing an increase in your budget from last year, did not constitute the full amount of your request. This correspondence shall serve as the official written notice of the Board's action as required by Sec. 30.49(4), Fla. Stats.

Specifically, the amount of the certified request from the Sheriff's Office for County FY 2016 was \$72,239,454. This represents a \$1,405,610 increase over the County's FY 2015 adopted budget of \$70,833,844. The Board adopted an allocation of \$71,130,444, which represents a decrease of \$1,109,010 from your office's certified budget request. The Board adopted allocation of \$71,130,444 represents an increase of \$296,600 from the County's FY 2015 adopted budget of \$70,833,844. In addition to the above, you requested that the Sheriff's Office be provided \$3,593,567 in reserves. The Board appropriated \$0 in identified reserves for the Sheriff's Office. The items amended, modified, increased or reduced within your requested budget are set forth in the attached spreadsheet.

Alachua County appreciates your continued dedicated service to the citizens of our community and thanks you for your cooperation in the budget process.

Sincerely,

Charles S. Chestnut IV., Chair  
Alachua County Commission  
chr15.086

CSC/ml

Enclosures

cc: Board of County Commissioners  
Dr. Lee A. Niblock, County Manager  
Michele Lieberman, County Attorney  
J.K. Irby, Clerk of Court  
Tommy Crosby, Director, OMB

Diane Smith, Sr. Financial Analyst, OMB  
Dr. Lee Niblock, County Manager  
Todd Hutchison, Director, Finance and Accounting  
Patty Justice, Chief Financial Officer, ACSO  
David Huckstep, Chief Deputy, ACSO