State Attorney Staff Firearm Possession in Courtrooms

Number: AGO 2025-03

Ed Brodsky
Office of the State Attorney, Twelfth Judicial Circuit, Florida
2071 Ringling Boulevard
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Dear Mr. Brodsky:

My office received your letter, dated June 3, 2025, requesting my legal opinion on a question of Florida law. You ask substantially the following question: Whether an Administrative Order by the Chief Judge of the Twelfth Judicial Circuit contravenes Florida law by preventing the state attorney, assistant state attorneys, and investigators with Active Law Enforcement Certification from carrying a firearm into any courtroom while they are on-duty and engaged in the lawful performance of their duties.[1]

In short, my answer is yes. Under Florida law, state attorneys, assistant state attorneys, and investigators may carry firearms into courtrooms when they are acting at any time within the scope or course of their official duties or when acting at any time in the line of or performance of duty. Because the Chief Judge's Administrative Order prevents the state attorney, assistant state attorneys, and investigators from carrying a firearm into any courtroom while they are acting at any time within the scope or course of their official duties or when acting at any time in the line of or performance of duty, the Administrative Order entered by the Chief Judge contravened Florida law.[2]

Background[3]

On May 6, 2025, the Chief Judge of the Twelfth Judicial Circuit published Administrative Order 2025-03.2.[4] This order, in relevant part, issued new rules concerning where the Twelfth Judicial Circuit's State Attorney (Ed Brodsky), assistant state attorneys, and investigators can carry firearms. On September 25, 2025, following the First District Court of Appeal's decision in *McDaniels v. State*,[5] the Chief Judge entered Administrative Order 2025-03a.2, amending Administrative Order 2025-03.2.[6]

The Order allows "[t]he 12th Circuit State Attorney, assistant state attorneys and investigators employed by the State Attorney … to carry firearms into and out of court facilities where their offices are located in the same court facility."[7] However, the Order fully bars them from carrying "firearms into a judge's chambers, court administration offices, *courtrooms* or hearing rooms housed in the same building as their office."[8] The Order also requires that "when the firearms are not on the individual's person, those firearms must be housed in a locked desk or other locked container in the individual's office."[9] Furthermore, when the "State Attorney, all 12th Circuit assistant state attorneys, and investigators" enter "into a court facility that does not house State Attorney Offices," they "are required to check and store their firearms in locked containers near the entrance that are approved by the court and managed by Judicial Security."[10] And "[t]he firearms shall be secured, accessed, and retrieved upon conclusion of their official business, according to the rules and procedures established by the Sheriff."[11]

The work of state attorneys is performed closely with law enforcement to ensure public safety. You highlighted that self-defense is important to state attorneys because it is common for state attorneys and their staff to receive threats from criminal defendants and their families and friends. The Florida legislature has recognized the importance of the safety of prosecutors by giving them the right to arm themselves in the course of their official duties.

Analysis

Chapter 790, Florida Statutes, regulates the carrying and licensing of firearms and weapons in the State of Florida. Section 790.06, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to issue licenses to individuals to carry concealed weapons or concealed firearms. That section identifies several locations where Floridians may not be authorized "to openly carry a handgun or carry a concealed weapon or concealed firearm."[12] One such location is "[a]ny courtroom." That section further explains that a judge may still determine "who [can] carry a concealed weapon or concealed firearm in his or her courtroom."[13]

However, section 790.051, Florida Statutes, provides a broad exemption from Chapter 790. Specifically, section 790.051 exempts "*[l]aw enforcement officers* ... from the licensing and penal provisions *of this chapter* when acting at any time within the scope or course of their official duties or when acting at any time in the line of or performance of duty."[14] And section 790.001, Florida Statutes, defines a "law enforcement officer" as: "*All state attorneys* and … *their respective assistants and investigators*."[15] My office has previously recognized that assistant state attorneys are law enforcement officers for purposes of section 790.051.[16] Not only are state attorneys, assistant state attorneys, and their investigators exempt from Chapter 790's various regulatory restrictions because they are law enforcement officers, that chapter also affords them the affirmative right to "own, possess, and lawfully use firearms … for lawful purposes" when "carrying out official duties."[17]

So, while section 790.06(12)(a)5. empowers judges to deauthorize "any person" from "openly carry[ing] a handgun or carry[ing] a concealed weapon or concealed firearm into any courtroom," law enforcement officers—including state attorneys, assistant state attorneys, and investigators—do not fall within the definition of "any person." This is because state attorneys, assistant state attorneys, and investigators are exempt from section 790.06(12)(a)—and Chapter 790's licensing and penal provisions, writ large—when acting within the scope or course of their official duties or when acting at any time in the line of or performance of duty.[18]

The Chief Judge's Administrative Order therefore proscribes what Chapter 790 explicitly allows. The Order plainly prevents the State Attorney, assistant state attorneys, and investigators (State Attorney Staff) from carrying "firearms into a judge's chambers, court administration offices, courtrooms or hearing rooms housed in the same building as their office."[19] As explained above, state attorneys, assistant state attorneys, and investigators are "law enforcement officers" who, under section 790.051, are exempt from Chapter 790's licensing and penal provisions when acting at any time within the scope or course of their official duties or when acting at any time in the line of or performance of duty. Accordingly, the Chief Judge's Administrative Order conflicts with and contravenes Florida law on whether state attorneys, assistant state attorneys, and investigators can carry firearms into a courtroom—not to mention the other court facility locations identified in the Chief Judge's Order.[20]

While true that the judiciary as a co-equal branch of government possesses "inherent power to do all things that are reasonably necessary for the administration of justice within the scope of its jurisdiction," that power is limited by "valid existing laws and constitutional provisions."[21] The judiciary's inherent power unquestionably includes "the power to issue an administrative order directing the security of court facilities," *Knight v. Chief Judge of Fla.'s Twelfth Jud. Cir.*, 235 So. 3d 996, 999 (Fla. 2d DCA 2017), but the Supreme Court of the United States has explained that "the exercise of an inherent power cannot be contrary to any express grant of or limitation on the ... court's power contained in a rule or statute."[22] And in Florida, "[i]f a chief judge issues an administrative order which attempts to amend a statute or rule by adding terms and conditions, that administrative order is invalid because it … exceeds the authority granted under Florida Rule of Judicial Administration 2.215(b)."[23] As explained above, the Chief Judge's Administrative Order runs headlong into Chapter 790's contrary provisions. And no other statute, rule, or authority cited in the Order authorizes the Chief Judge's exacting firearm regulation scheme for the State Attorney, assistant state attorneys, and their investigators.

Conclusion

[24]Here, the Chief Judge's Administrative Order clearly conflicts with and attempts to amend Florida law.[25] It prohibits the State Attorney, assistant state attorneys, and investigators from doing what Florida law unequivocally authorizes them to do.[26] They may, per statute, carry firearms when performing official duties.[27] And while section 790.06(12) contemplates a Chief Judge's ability to regulate the carrying of firearms in courthouses and

courtrooms, the State Attorney, assistant state attorneys, and investigators plainly fall outside that statute's permissible regulatory sweep.[28] Accordingly, because the Chief Judge's Administrative Order conflicts with and attempts to amend Florida law, the Order cannot lawfully prohibit the State Attorney, assistant state attorneys, and their investigators from carrying firearms in the Twelfth Circuit's courtrooms.[29]

Sincerely,

James Uthmeier

Attorney General

[1] Whenever requested by a state attorney, Florida law authorizes me to give a state attorney my opinion upon any question of law. § 16.08, Fla. Stat.

[2] This opinion does not address a chief judge's ability to restrict members of the general public from bringing firearms into a courtroom.

[3] As provided in the State Attorney's Memorandum of Law.

[4] *In re Sec. and Operations of Ct. Facilities*, Fla. 12th Cir. Ct. Admin. Order No. 25-03.2 (May 6, 2025), https://www.jud12.flcourts.org/Documents/Administrative-Orders/Administrative-Order-Viewer/aid/663.

[5] Case No. 1D2023-0533, 2025 WL 2608688, at *11 (Fla. 1st DCA Sept. 10, 2025) (holding that the open carry ban in section 790.053, Florida Statutes, is unconstitutional).

[6] *In re Sec. and Operations of Ct. Facilities*, Fla. 12th Cir. Ct. Admin. Order No. 25-03a.2 (Sept. 25, 2025), https://www.jud12.flcourts.org/Documents/Administrative-Orders/Administrative-Order-Viewer/aid/676.

[7] *Id.*

[8] *Id.* (emphasis added).

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] § 790.06(12)(a), Fla. Stat.

[13] *Id.*

[14] § 790.051, Fla. Stat. (emphasis added).

[15] § 790.001(12)(f), Fla. Stat. (emphasis added); *see also* § 27.255(1), Fla. Stat. (declaring that "[e]ach investigator employed on a full-time basis by a state attorney … is … a law enforcement officer" and "may carry weapons on or about his or her person in the same manner as other law enforcement officers").

[16] Op. Att'y Gen. Fla. 88-04 (1988) (determining "that assistant state attorneys are law enforcement officers for purposes of Ch. 790, F.S., and are exempt from the licensing requirements set forth in s. 790.06, F.S., while acting within the scope of their official duties").

[17] § 790.25(2)(d), Fla. Stat.

[18] *See* Op. Att'y Gen. Fla. 12-08, n.1 (2012) (suggesting that if a bailiff was a "law enforcement officer," section 790.051 would exempt the bailiff from any policy based on section 790.06(12)(a)5. that prevents bailiffs from carrying firearms into a "courtroom"); *see also* Op. Att'y Gen. Fla. Informal Op. (Aug. 8, 2016) (suggesting that section 790.051 exempts law enforcement officers from section 790.06(12)(a)'s location list); Op. Att'y Gen. Fla. 93-37, n.3 (1993) (finding sections 790.25(2)(d) and 790.051 exempt law enforcement officers from policies that prevent on-duty law enforcement officers from carrying firearms while voting at "polling places").

[19] *In re Sec. and Operations of Ct. Facilities*, Fla. 12th Cir. Ct. Admin. Order No. 25-03a.2.

[20] Although it is not within the scope of this opinion, the same analysis would apply to a "courthouse," which is listed in section 790.06(12)(a)4., Florida Statutes.

[21] *See Rose v. Palm Beach Cnty.*, 361 So. 2d 135, 137 (Fla. 1978).

[22] *Dietz v. Bouldin*, 579 U.S. 40, 45 (2016) (citing *Degen v. United States*, 517 U.S. 820, 823–24 (1996)).

[23] *Hatcher v. Davis*, 798 So. 2d 765, 766 (Fla. 2d DCA 2001) (citing *Hewlett v. State*, 661 So. 2d 112, 115 (Fla. 4th DCA 1995)).

[25] *See, e.g.*, *Gincley v. State*, 267 So. 3d 444, 446 (Fla. 4th DCA 2019) (holding that the chief judge's administrative order exceeded his authority because the order added terms and conditions to a statute establishing pretrial intervention programs); *Hatcher*, 798 So. 2d at 766 (holding that the chief judge's administrative order exceeded his authority because the order conflicted with Florida's Family Law Rules of Procedure); *Dep't of Juv. Just. v. Soud*, 685 So.2d 1376, 1379–80 (Fla. 1st DCA 1997) (holding that the chief judge's administrative order exceeded his authority because the order effectively amended the statute concerning juvenile delinquency).

[26] § 790.25(2)(d), Fla. Stat.

[27] The Chief Judge's Administrative Order elsewhere clarifies:

> The State Attorney, all assistant state attorneys and investigators employed by the State Attorney who are authorized to carry firearms as part of their official duties are prohibited from carrying a firearm into any court facility in this circuit when they are not representing the interests of the State of Florida or appearing in an official capacity. Additionally, if the State Attorney, an assistant state attorney or an investigator employed by the State Attorney's Office is in a court facility for a personal matter, s/he is expressly prohibited from carrying a firearm into the court facility.

In re Sec. and Operations of Ct. Facilities, Fla. 12th Cir. Ct. Admin. Order No. 25-03 . This provision *may* evade conflict with the "official duties" carry right in section 790.25(2)(d), but that tentative conclusion doesn't consider whether this "non-official carry" prohibition otherwise violates the constitutional self-defense rights of law enforcement officers.

[28] Regardless, the Administrative Order doesn't rely upon or even cite section 790.06(12)(a), as a lawful justification for the Chief Judge's firearm rules.

[29] This opinion answers the question asked, and thus only addresses whether the Chief Judge's Administrative Order may limit the carry rights of the State Attorney, assistant state attorneys, and investigators of the Twelfth Judicial Circuit. But for other Florida law enforcement officers within and without the Twelfth Circuit, it's doubtful the analysis would be any different.