

ADMINISTRATIVE ORDER
No. 07-91-22

IN THE CIRCUIT COURT OF
FLORIDA, NINTH JUDICIAL
CIRCUIT, ORANGE AND OSCEOLA
COUNTIES, FLORIDA

AMENDED ADMINISTRATIVE ORDER ON PROCEDURES FOR CRIMINAL INTAKE IN THE
NINTH JUDICIAL CIRCUIT

Florida Rule of Criminal Procedure 3.133 and Florida Rule of Juvenile Procedure 8.010(g), require a judicial determination of probable cause to be made within 72 hours of arrest if a defendant remains in custody. This computation includes weekends and holidays. The purpose of this provision is to comply with the United States Supreme Court's decision in Gerstein v. Pugh, 420 U.S. 103, 95 S.Ct. 854, 43 L.Ed.2d 54 (1975), and its specific holding that "the Fourth Amendment requires a judicial determination of probable cause as a prerequisite to extended restraint on liberty following arrest." However, the United States Supreme Court has subsequently required that judicial determinations of probable cause must occur no later than 48 hours after arrest. County of Riverside v. McLaughlin, 500 U.S. _____, 111 S.Ct. 1661, 114 L.Ed.2d 49 (1991).

Additionally, the Florida Supreme Court requires the State Attorney or a designated assistant to make a special oath upon filing each felony information, to wit:

Personally appeared before me _____, Assistant State Attorney of the Ninth Judicial Circuit of Florida, who being first duly sworn, says that he/she certifies that he/she has received testimony under oath from the material witness or witnesses for the offense and that he/she institutes the prosecution in good faith.

The most significantly changed portion of the oath is the certification of receiving "testimony under oath from the material witness or witnesses for the offense . . ." Fla. R. Crim. P. 3.140(g).

Before filing an information, every State Attorney should not only seek probable cause in his/her investigation, but also determine the possibility of proving the case beyond and to the exclusion of every reasonable doubt. If the latter cannot be accomplished, no information should be filed and the defendant should be released.

In order to meet these requirements and to improve the effectiveness of the judicial system within this circuit, it is considered essential that certain standardized procedures be followed by law enforcement agencies and by the State Attorney who is required under Florida Rule of Criminal Procedure 3.115 to "provide the personnel or procedure for criminal intake in the judicial system."

SECTION I: GENERAL

(A) FELONIES:

Prosecution of all felony cases wherein the defendant is an adult, occurring in Orange County and investigated by law enforcement agencies, will be initiated through the Criminal Intake Bureau of the Orlando Office of the State Attorney, presently located at Suite 600, NCNB Bank Building, 250 North Orange Avenue, Orlando, Florida 32806, telephone (407) 836-2430.

Prosecution of all felonies and misdemeanors, other than traffic misdemeanors, committed in Orange County by persons under the age of eighteen (18) years at the time of the offense, hereinafter referred to as juvenile cases, will be initiated through the Office of the State Attorney, Juvenile Division, presently located at Suite 400, Juvenile Justice Center, 2000 East Michigan Street, Orlando, Florida 32806.

Prosecution of all felony cases (adult or juvenile) occurring in Osceola County and