

**AMENDED ORDER GOVERNING FIRST APPEARANCE PROCEEDINGS, NOTICES
TO APPEAR FOR CRIMINAL MATTERS, AND PRETRIAL RELEASE,
OSCEOLA COUNTY**

The purpose of this Administrative Order is to provide for the efficient and effective processing of first appearances and related matters.

By the power vested in the chief judge under Article V, section 2(d) of the Florida Constitution, section 43.26, Florida Statutes, and rule 2.215 of the Florida Rules of General Practice and Judicial Administration, **effective immediately**, to continue until further order and superseding any provisions in prior Administrative Orders which may be inconsistent, it is **ORDERED** that the following procedures are amended as follows:

I. Judge Assignment to Hear Pretrial Matters:

First Appearance shall be performed by each judge assigned to Osceola County on a rotating basis. When the courthouse is closed, the emergency duty judge shall conduct the First Appearance. All pretrial matters not heard at the First Appearance shall be scheduled before the judge to whom the case is assigned, including bond hearings and modifications of release conditions.

In accordance with law, applications to set or modify bail are to be heard “promptly.” This Order contemplates a hearing will be held as soon as possible, but with due regard for the notice provisions of the Florida Rules of Criminal Procedure and any other factor properly considered to allow the parties to have a fair opportunity to present their case at the hearing. If a judge is not able to hold a hearing on a motion to set or reduce bail within five (5) business days, the movant may seek a hearing before that judge’s alternate or the chief judge. The five-day period only applies to an initial bond hearing after initial appearance and does not apply to motions to set or modify bond after the initial bond hearing, after alleged violation of probation, after a failure to appear or to modify conditions of release. The five-day period does not commence until filing of the motion and actual notice has been provided.

II. Establishment of Persons to Be Presented for First Appearance Hearings and Procedures for First Appearance Hearings:

A. Operational Procedures for First Appearances Held in Osceola County:

There will be one session for first appearance hearings in Osceola County, Florida, at 1:00 p.m., Monday through Friday, except on holidays and weekends. The time frames may be

changed upon twenty-four hours' notice, as a result of experience, collection court, in-jail arraignments and bond hearings.

Osceola County Jail personnel shall immediately contact the Court Administration 24 hour help line at (407) 836-0522 upon the booking of an individual who appears to need a sign language interpreter. Court Administration will make arrangements to provide the services of a sign language interpreter for First Appearance.

B. MANDATORY FIRST APPEARANCE

1. Section 903.011(6), Florida Statutes, states in pertinent part: A person may not be released before his or her first appearance hearing . . . if the person meets and of the following criteria¹:

- (a) the person was, at the time of arrest for any felony, on pretrial release, probation, or community control in this state or another state;
- (b) The person was, at the time of arrest, designated as a sexual offender or sexual predator in this state or any other state;
- (c) The person was arrested for violating a protective injunction;
- (d) The person was, at the time of arrest, on release from supervision under sections 947.1405, 947.146, 947.149, or 944.4731, Florida Statutes.
- (e) The person has, at any time before the current arrest, been sentenced pursuant to section 775.082(9) or section 775.084, Florida Statutes, as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal;
- (f) The person has been arrested three or more times in the six (6) months immediately preceding his or her arrest for the current offense; or
- (g) The person's current offense of arrest is for one or more of the following crimes:
 - (1) A capital felony, life felony, felony of the first degree, or felony of the second degree;
 - (2) A homicide under chapter 782; or any attempt, solicitation, or conspiracy to commit a homicide;

¹ Those crimes that require a First Appearance hearing under section 903.011(6), Florida Statutes, must be held for First Appearance even if a bond is set on the warrant. These criteria also apply to warrants issued prior to January 1, 2024, but not executed until after January 1, 2024.

- (3) Assault in furtherance of a riot or an aggravated riot; felony battery; domestic battery by strangulation; domestic violence, as defined in section 741.28, Florida Statutes; stalking; mob intimidation; assault or battery on a law enforcement officer; assault or battery on a juvenile probation officer, or other staff of a detention center or commitment facility, or staff member of a commitment facility, or health services personnel; assault or battery on a person 65 years of age or older; robbery; carjacking; or resisting an officer with violence;
- (4) Kidnapping, false imprisonment, human trafficking, or human smuggling;
- (5) Possession of a firearm or ammunition by a felon, violent career criminal, or person subject to an injunction against committing acts of domestic violence, stalking, or cyberstalking.
- (6) Sexual battery; indecent, lewd, or lascivious touching; exposure of sexual organs; incest; luring or enticing a child; or child pornography;
- (7) Abuse, neglect, or exploitation of an elderly person or disabled adult;
- (8) Child abuse or aggravated child abuse;
- (9) Arson; riot, aggravated riot, inciting a riot, or aggravated inciting a riot; or burglary or theft during a riot;
- (10) Escape; tampering or retaliating against a witness, victim, or informant; destruction of evidence; or tampering with a jury;
- (11) Any offense committed for the purpose of benefitting, promoting, or furthering the interests of a criminal gang;
- (12) Trafficking in a controlled substance, including conspiracy to engage in trafficking in a controlled substance;
- (13) Racketeering; or
- (14) Failure to appear at required court proceedings while on bail.

These persons are to be held until First Appearance, at which time the first appearance judge will decide conditions of release, if any.

2. Except as provided in section 907.041, Florida Statutes, every person charged with a crime or a violation of a municipal or county ordinance shall be entitled to pretrial release on

reasonable conditions. The court may impose conditions of release as provided in section 903.047(a)(c), Florida Statutes. In addition, section 903.046, Florida Statutes, provides that the purpose of bail determinations in criminal proceedings is to ensure the appearance of the criminal defendant at subsequent proceedings and to protect the community against unreasonable danger from the criminal defendant.

3. Bond amounts prior to First Appearance are not intended to and do not bind the judge at First Appearance or at any subsequent bond hearing. Judges presiding over bond hearings shall consider the criteria for bond set forth in the applicable statute and rule and may not rely on the schedules attached to Ninth Judicial Circuit Court Administrative Order 2022-03-02.

4. Any motion for bail or bond for a defendant arrested for or charged with any of the offenses listed in B.(1) above, except burglary of a structure or dwelling during a natural disaster/act of God, acts of terrorism, or war (i.e., looting during a state of emergency), shall include the following information: the charging affidavit and any other supporting documents; addresses and phone numbers of defendant; address and phone numbers of defendant's employers; and any aliases of defendant. A copy of such motion shall be forwarded to the Department of Corrections at their designated office.

III. EXTRADITION AND OUT-OF-COUNTY WARRANTS:

- A. When an inmate of the Osceola County Jail has had all local charges cleared and is detained solely and exclusively on a warrant from another jurisdiction, the Corrections staff shall immediately teletype to the other agency that the inmate must be picked up by a date and time certain or he/she will be released from jail on ROR or bond, unless the agency requests an extension for good cause shown. The same procedure shall be followed by the Sheriff's Extradition Deputy for out-of-state fugitives where the inmate has waived extradition or has been ordered surrendered after habeas corpus proceedings have been completed and Notice of Appeal was not filed or the appeal was dismissed or affirmed.
- B. The time periods shall not include Saturdays, Sundays, and holidays, and shall be as follows:
 - 1. Inmates held for contiguous Florida counties, e.g.: Orange, Polk, Lake, Okeechobee, Indian River, and Brevard - 24 hours from First Appearance; with no local charges;
 - 2. Inmates held for all other Florida counties - 72 hours from First Appearance with no local charges; and
 - 3. Inmates held for other states - 30 days from date of notification;
- C. The telephone contact and teletype message from the Correctional Release Specialist or the Sheriff's Extradition Deputy shall provide a date and time certain for pickup.

- D. If the time deadline passes without the pickup agency requesting an extension for good cause, the Corrections staff or the Sheriff's Extradition Deputy, as the case may be, will notify the Clerk of Court within 24 hours from the next business day and the Clerk shall place the inmate on the next First Appearance docket. The first appearance judge shall set bond or make such other release determination. If the inmate is held on a Florida warrant, the ROR order shall direct that he/she report to the proper court on a date and to be scheduled by the jurisdiction issuing the warrant; if the bond is set or reduced, the order shall direct that the inmate report to the court on a date and to be scheduled by the jurisdiction issuing the warrant. If the inmate is held on an out-of-state charge, the order for ROR or setting bond shall direct that the inmate appear before the judge conducting fugitive hearings when notified. The Corrections staff or the Sheriff's Extradition Deputy shall immediately notify the pickup agency contact person by teletype that this action was taken, and shall mail a copy of the order to the contact person.

IV. STATE ATTORNEY RELEASE/ERRONEOUS BOOKING:

- A. The State Attorney or his/her designee has the authority to release pre-trial detainees without the approval of the court. Such authority shall extend only to those prisoners whom the State Attorney has determined shall not be prosecuted for the instant charged offense. The State Attorney's office may initiate such an order of release by notifying the Osceola County Department of Corrections by telephone, and immediately thereafter filing a No Information Notice or a Nolle Prosequi to effectuate the release of the defendant.
- B. After an accused person has been booked into the Osceola County Department of Corrections and the arresting agency determines that an error occurred and the accused should be released, then Osceola County Department of Corrections will release the accused provided as follows: (1) that the accused person has been properly identified; (2) the accused person does not have any outstanding warrants or writs which would hold the accused on another matter; (3) the arresting agency files with Osceola County Department of Corrections an affidavit requesting release which includes an explanation of the alleged error.
- C. Nothing contained herein shall abrogate pretrial release, reduction of bond or other procedures established by Florida Law or Rule.

V. VIOLENT FELONY OFFENDERS OF SPECIAL CONCERN:

Persons arrested for new law violations who have been identified as a violent felony offender of special concern pursuant to the Anti-Murder Act, sections 903.0351, 948.06, and 948.064, Florida Statutes, but have not yet been arrested for a violation of probation, shall be placed on a five (5) day administrative hold. Osceola County Corrections shall immediately

notify the Department of Corrections of the new arrest so that the Department of Corrections can take the appropriate action.

A. Persons to be Presented for First Appearance Hearings:

Florida Rule of Criminal Procedure 3.130(a) requires that every person arrested on a criminal charge who is still in custody 24 hours after arrest must be taken before a judge for a First Appearance hearing unless such person was previously arrested and released from custody on that same charge. Persons who fall into the following categories, and only those persons, including those listed in section 903.011(6), Florida Statutes, will be presented for First Appearance hearings in Osceola County.

1. Arrest without warrant;
2. Arrest under an “at large” capias;
3. Initial arrest under an “at large” arrest warrant;
4. Arrest under a Failure to Appear (FTA) warrant where the person was never arrested but served with a summons and failed to appear for arraignment;
5. Persons arrested via a charging affidavit for violating the special condition of probation requiring that the defendant not return to the “prostitution mapping zone” must appear at the First Appearance proceedings and at such proceedings the judge may set a bond of the defendant’s release;
6. Persons arrested via a charging affidavit for on view violation of probation conditions by officer;
7. Persons arrested on violation of probation or violation of community control warrants;
8. Persons arrested who have not been released on monetary conditions and are certified eligible, pursuant to section 907.041(3)(b), Florida Statutes, to be released into the Osceola County Pretrial Release Program;
9. Persons turned in by bail bond agent (TIBB) prior to arraignment;
10. Persons with a hold preventing release, including errors in identifying additional cases the person is currently out on bond or other release status as more fully set forth in D below;
11. Persons set forth in Section III.D.
12. Persons arrested for a felony of the second degree
13. Persons arrested for a sex-offense related to a felony of the third degree.

B. Persons Not to be Presented at First Appearance Hearings are:

1. Persons arrested on civil writs;
2. Persons turned in by bail bond agent (TIBB) after arraignment;
3. Persons who prison control release (PCR) or ROR release was revoked (unless an error prevented the first appearance judge from identifying the case during the original First Appearance);
4. Persons arrested on a contempt of court warrant;
5. Persons with a summons issued that has never been served (person may be

seen for the charge arrested, but not the non-served charge until the State perfects service).

C. If there is any doubt as to whether an arrested person should be presented for a First Appearance hearing, that doubt should be resolved in favor of the defendant appearing at the First Appearance.

D. First Appearance Detainer:

Corrections staff may place a first appearance detainer on defendants under the following circumstances and those individuals will be presented for First Appearance at the next session so that the first appearance judge may properly consider all factors in setting release conditions:

1. Defendants listed in II.B. above.
2. Defendant currently on release arrested for a new violation that occurred after the offense for which the defendant is on release.
3. Defendant previously appeared at First Appearance and upon processing for release, Corrections staff determines the first appearance judge was not provided information about all of the cases the defendant is currently out on bond or other release condition.
4. There shall be no first appearance detainer for an unserved summons or for notices to appear, or in cases where defendant was found incompetent to proceed.
5. There shall be no first appearance detainer where a defendant is arrested for a failure to appear warrant/capias. The mere fact that defendant has other cases is not sufficient for a first appearance detainer.

VI. ESTABLISHMENT AND AVAILABILITY OF RELEASE PROGRAMS:

A. Osceola County Pretrial Release Program:

1. It is the policy of this State that persons committing serious criminal offenses, posing a threat to the safety of the community or the integrity of the judicial process, or failing to appear at trial be detained upon arrest. However, persons found to meet specified criteria shall be released under certain conditions until proceedings are concluded and adjudication has been determined. The policy of pretrial detention and release will assure the detention of those persons posing a threat to society; while reducing the costs for incarceration by releasing, until trial, those persons not considered a danger to the community who meet certain criteria.

2. The Pretrial Services staff designated by the Chief of Corrections shall review inmates for pretrial release ("PTR") prior to first appearance and for possible court ordered PTR.

3. The Osceola County PTR Program ("Program") is administered by Corrections.

The Program provides supervision of accused persons while they await resolution of their charges. At a minimum, supervision consists of automated telephonic reporting to confirm compliance with court conditions and stability of circumstances. The Program administers random drug and alcohol testing (including, but not limited to, urinalysis, breath test, and any such other commercially available testing), face-to-face appointments if court ordered or a result of the risk assessment².

4. Once an inmate is enrolled, nothing in this Administrative Order prohibits the Program from applying to the assigned judge for revocation or such other relief as may be appropriate.

B. Administrative Pretrial Release Before First Appearance:

1. Unless a judge specifically orders otherwise, a person arrested for a non-violent misdemeanor of the first or second degree, a criminal traffic offense, or a violation of a municipal or county ordinance, except for charges relating to domestic violence or sex crimes pursuant to section 903.011, Florida Statutes, and as provided in Ninth Judicial Circuit Court Administrative Order 2022-03-02, shall be reviewed for possible release into the Program before First Appearance provided that:

a. Pursuant to section 907.041(3)(b), Florida Statutes, the Program certifies to the court that it has investigated or otherwise verified:

i. The circumstances of the accused person's family, employment, character, mental condition and length of residence in the community;

ii. The accused person's record of convictions, of appearances at court proceedings, or flight to avoid prosecution, or failure to appear at court proceedings;

iii. Other facts necessary to assist the court in its determination of the indigence of the accused person and whether she or he should be released under the supervision of the service;

iv. The accused person must reside in or own real property in the State of Florida.

b. In addition, the accused person must meet the following qualifications:

i. The accused person does not have any current charges related to domestic violence or violation of domestic injunctions or any prior conviction for murder, attempted murder, sex crimes listed in B.3. below, robbery, home invasion, crimes against

² A pretrial risk assessment instrument is a one-page summary of the characteristics of an individual that presents a score corresponding to their likelihood to fail to appear in court or be re-arrested prior to the completion of their current case. This instrument consists of 11 questions about the nature of the current offense, criminal history, employment, residency, drug and mental health, and other stabilizing factors. Responses are weighted, based on data that shows how strongly each item is related to the risk of flight or re-arrest. The answers are tallied to produce an overall risk assessment score.

children, carjacking, or any other capital or life felonies;

ii. The accused person must have a risk assessment of Moderate or below;

iii. The accused person is not currently on bail (monetary or non-monetary), or probation or parole, or other legal constraint;

iv. The accused person has not failed to appear more than 3 times in the last 2 years, as evidenced by the issuance of a capias/warrant unless there is evidence the failure to appear was not willful;

v. When considering a defendant arrested for a traffic charge, the accused person has not been found guilty of a DUI within the last 12 months or found guilty of 2 DUIs in the last 5 years or deemed an habitual traffic offender;

vi. The accused person's criminal history does not include incarceration in a Department of Corrections facility within the last 5 years;

vii. The accused person is not a high risk sex offender, sex offender/predator, violent felony offender of special concern, habitual violent offender, or identified as career criminal status by FDLE;

viii. The accused person has not exhibited mental illness or behavior indicating he/she might cause harm to himself/herself or another.

2. Pursuant to Florida Rule of Criminal Procedure 3.131, unless a person is charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption of guilt is great, that person is entitled to PTR on reasonable conditions. If no condition of release can reasonably protect the community from risk of harm, assure the accused presence at trial, or assure the integrity of the judicial process, the accused may be detained pursuant to section 907.041, Florida Statutes, and Florida Rules of Criminal Procedure 3.132. It is also the intent of the Legislature to create a presumption in favor of release on nonmonetary conditions for any person who is granted PTR unless such person is charged with a dangerous crime as defined in section 907.041(4), Florida Statutes.

3. No accused person will be released under the Program if charged with a capital, life, first degree felony or other dangerous crime listed below:

- a. Arson;
- b. Aggravated assault;
- c. Aggravated battery;
- d. Illegal use of explosives;
- e. Child abuse or aggravated child abuse;
- f. Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult;
- g. Aircraft piracy;
- h. Kidnapping;
- i. Homicide;
- j. Manslaughter, including DUI manslaughter and BUI manslaughter;
- k. Sexual battery;

- l. Robbery;
- m. Carjacking;
- n. Lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years;
- o. Sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority;
- p. Burglary of a dwelling;
- q. Stalking and aggravated stalking;
- r. Act of domestic violence as defined in s. 741.28;
- s. Home invasion robbery;
- t. Act of terrorism as defined in s. 775.30;
- u. Manufacturing any substances in violation of chapter 893;
- v. Attempting or conspiring to commit any such crime; and
- w. Human trafficking;
- x. Trafficking in any controlled substance described in s. 893.135(1)(c) 4.;
- y. Extortion in violation of s. 836.05; and
- z. Written threats to kill in violation of s. 836.

Pursuant to Florida Rule of Criminal Procedure 3.131(b)(4), no person charged with a dangerous crime, as set forth above and as defined in section 907.041(4)(a), Florida Statutes, shall be released on nonmonetary conditions under the supervision of a pretrial release service, unless the service certifies to the court that it has investigated or otherwise verified the conditions set forth in section 907.041(3)(b), Florida Statutes.

VII. COURT ORDERED PRETRIAL RELEASE:

- A. Any accused person may be released into the Program after First Appearance with a judicial order as more fully set forth below.
- B. Pursuant to section 907.041(3)(b), Florida Statutes, the Program certifies to the court that it has investigated or otherwise verified:
 - 1. The circumstances of the accused person's family, employment, character, mental condition and length of residence in the community;
 - 2. The accused person's record of convictions, of appearances at court proceedings, or flight to avoid prosecution, or failure to appear at court proceedings; and
 - 3. Other facts necessary to assist the court in its determination of the indigence of the accused person and whether she or he should be released under the supervision of the service.
- C. Based upon a criminal history investigation, the accused person must meet the following qualifications:

1. The accused person does not have any current charges listed in B.3. above;
2. The accused person is not identified as a high risk sex offender, sex offender/predator, violent felony offender of special concern, habitual violent offender, or in a career criminal status by FDLE;
3. The accused person is not currently on bail (monetary or non-monetary), probation or parole, or other legal constraint (if the constraint is an out of state warrant, it will be decided by the first appearance judge in consultation with PTR); and
4. The accused person has not exhibited mental illness or behavior indicating he/she might cause harm to himself/herself or another.

D. Pursuant to section 903.0351, Florida Statutes, in the instance of an alleged violation of felony probation or community control, bail or any other form of pretrial release shall not be granted prior to the resolution of the probation-violation hearing or the community-control violation hearing to:

1. A violent felony offender of special concern as defined in section 948.06, Florida Statutes;
2. A person who is on felony probation or community control for any offense committed on or after March 12, 2007, and who is arrested for a qualifying offense as defined in section 948.06(8)(c); or
3. A person who is on felony probation or community control and has previously been found by a court to be a habitual violent felony offender as defined in section 775.084(1)(b), a three-time violent felony offender as defined in section 775.084(1)(c), or a sexual predator under section 775.21, and who is arrested for committing a qualifying offense as defined in section 948.06(8)(c) on or after March 12, 2007.

E. However, Section VII.D. of this Order shall not apply where the alleged violation of felony probation or community control is based solely on the probationer or offender's failure to pay costs or fines or make restitution payments.

F. No accused person will be released to the Program who does not qualify regardless of any other condition set in conjunction therewith. If an accused person is ordered to PTR or Bond with PTR and it is determined that the accused does not meet the criteria for acceptance into the Program, the jail must notify the judge who ordered the PTR or Bond with PTR (or the first appearance judge if it was ordered on a holiday or weekend) and the accused must then be brought before the first appearance judge to set new terms of release.

G. The Osceola County Corrections Department conducts routine assessments of the jail population. If the Chief of Corrections or his/her designee determines that an inmate incarcerated for a non-violent misdemeanor of the first or second degree, a criminal traffic offense, or a violation of a municipal or county ordinance, except

for charges relating to domestic violence and has already appeared for First Appearance, qualifies for release based on established criteria as outlined above, then that inmate shall be released into the Program.

- H.** Release under this Program shall include a condition that the person comply with all orders of the court, appear at all court hearings, refrain from any criminal activity, refrain from contact with any alleged victims, and any other condition specifically ordered by the court. All Program participants will be supervised according to their pretrial risk assessment score. If a person released under this Program violates any condition of release or is arrested for a crime for which probable cause has been found by a judge, the Program shall apply to the judge assigned to have his/her release revoked and have a warrant issued.

VIII. PROGRAM CAPACITY:

If the Program reaches capacity as determined by the Chief of Corrections in consultation with the Chief Judge, no additional accused persons shall be admitted until such time as space becomes available.

IX. PROCEDURES FOR NOTICES TO APPEAR:

A. When a person is arrested for a non-violent misdemeanor of the first or second degree, a criminal traffic offense, or a violation of a municipal or county ordinance, except for charges relating to domestic violence or sex crimes pursuant to section 903.011, Florida Statutes, and as provided in Ninth Judicial Circuit Court Administrative Order 2022-03-01, the accused shall be released at the scene of the arrest through the issuance of a Notice to Appear, except in those cases requiring mandatory booking pursuant to section B below. In any case where persons are not booked into jail, the Notice to Appear form must include information stating the type of identification provided by the person arrested and right and left thumb prints of the person arrested. The arresting officer shall have the discretion, however, to book the accused person into the county jail if the officer determines that any of the following factors exist:

1. The subject of the arrest is known by the arresting officer to be a habitual offender;
2. The alleged crime is one of a violent nature or one which indicates a reckless disregard for the safety of others;
3. The nature of the accused person is clearly violent or disorderly;
4. The arresting officer has reason to believe that the accused person will repeat the offense if not detained;
5. The accused person has no valid, verifiable address;
6. The accused person does not reside in Osceola County or a bordering county; or
7. The arresting officer has reason to believe that the accused person meets the criteria for the Baker Act, or the Marchman Act, or is a substance abuser, or suffers from a mental illness.

B. The accused person shall be booked into the county jail if any of the following circumstances exist:

1. The accused person failed to sufficiently identify himself or herself or supply the required information;
2. The accused person refused to sign the Notice to Appear;
3. The arresting officer has reason to believe that the continued liberty of the accused person constitutes an unreasonable risk of bodily injury to others;
4. The accused person has no ties with the jurisdiction sufficient to assure the accused's appearance at court or there is substantial risk that the accused will refuse to respond to the notice or citation;
5. The arresting officer has a reasonable belief the accused person may be wanted in any jurisdiction;
6. The arresting officer has a reasonable belief that the accused person has previously failed to respond to a notice or summons or has violated the conditions of any pretrial release program;
7. The accused person is arrested for prostitution or a prostitution related offense, including violations of probation; or
8. The accused person is currently on any criminal court release conditions (e.g. bond, ROR).

C. If a person accused of a misdemeanor, criminal traffic offense, or violation of city or county ordinance is brought to the jail because the person failed to sufficiently identify himself or herself or supply the information necessary for completion of the Notice to Appear, or because it appeared to the arresting officer that the accused person had previously failed to respond to a notice or summons or had violated the conditions of any pretrial release program, Osceola County Corrections staff shall begin a preliminary investigation to determine if the accused person is a likely candidate for Release on his/her own Recognizance ("ROR"). The accused will be positively identified through AFIS, an interview, criminal history screening, and investigation shall include:

1. The accused person provides residence information and currently resides in Osceola, Orange, Seminole, Brevard, Lake, Polk, Indian River or Okeechobee County;
2. The accused person provides the name, address and phone number of an emergency contact;
3. The accused person provides current employment or student information or is a homemaker, retired or disabled;
4. The accused person is not exhibiting mental illness or behavior indicating he/she may cause harm to himself/herself or another;
5. The accused person's criminal history must not include felony or misdemeanor convictions, FTA's, VOP's, sex offender, predator or high risk sex offender; and
6. The accused person's pretrial risk assessment must be Low or below.

D. Pursuant to paragraph C above, once it is determined that the accused person qualifies, he or she shall be released upon the issuance of a ROR pursuant to Florida Rule of Criminal Procedure 3.125(c).

E. Any accused person booked into the Osceola County Jail on a worthless check warrant may be released on his or her own recognizance once the Osceola County Corrections staff determines the accused person is likely to appear based on the criteria set out in paragraphs C, and D of this subsection.

F. Any accused person who is released on his or her own recognizance pursuant to this Order, shall receive a notice substantially stating the following:

You are being released pursuant to administrative order because you have met the criteria for release. You have supplied an address to which all future court process will be sent. As a condition of your release, you must refrain from criminal activity of any kind and you must refrain from any contact with the alleged victim of the crime which you have been charged except through pretrial discovery if stipulated by all parties or if ordered by the judge on a showing of good cause pursuant to Florida Rule of Criminal Procedure 3.220(h)(7). If you violate these conditions or fail to appear for any of your court dates, your recognizance status will be revoked and you may remain in jail or be required to post a substantial bond until your charges have been disposed. You must notify the Clerk of Court if your address has been changed within 24 hours from the date the address has changed.

X. CLERK OF COURT PROCESSING:

A. Receive and process all Notices to Appear issued for offenses committed within the geographical area of jurisdiction of the court served.

B. Receive, receipt for, account for and distribute in accordance with section 34.191, Florida Statutes, and other applicable statutes, once sentenced by the Court, all fines and court costs assessed upon conviction or plea of guilty of offenses charged under Notices to Appear issued pursuant to Florida Rule of Criminal Procedure 3.125.

C. Accept an appearance and plea of “Not Guilty,” in writing, in person or by an attorney, to a charge of committing a first or second degree misdemeanor offense, or a county or municipal ordinance violation, when a Notice to Appear was issued and have the case assigned for trial at a future date.

D. Retain the original of each Notice to Appear and Schedule of Witnesses and Evidence.

E. Schedule for arraignment and assign to a judge, who will handle all proceedings after arraignment.

F. Receive payment of all fines and costs resulting from Notices to Appear.

G. Receive motions for new hearings or in arrest of judgment pursuant to Florida Rules of Criminal Procedure, within prescribed time limits and notify the defendant or his counsel of the time scheduled for a hearing.

H. Maintain records of all cases processed, numbering and reporting for identification and statistical purposes, separately from cases disposed of in open court.

I. Issue a *capias*, pursuant to Florida Rule of Criminal Procedure 3.730, for the arrest of any resident of this State, or any non-resident upon whom process may be served in this State, who fails to respond to a Notice to Appear lawfully served upon such person. The *capias* shall be directed to all law enforcement officers, state, county or municipal, in the State, and may be executed in any county in this State.

J. Any additional duties or responsibilities as may be delegated by the Chief Judge of the Ninth Judicial Circuit.

XI. FAILURE TO APPEAR:

When a person signs a written Notice to Appear in the case at issue and fails to appear, a warrant of arrest shall be issued pursuant to Florida Rule of Criminal Procedure 3.121, or a *capias* pursuant to Rule 3.730, and that the minimum bond on either a *capias* or a warrant is set in the amount of \$2,000.00 as required by section 903.046(d), Florida Statutes.

XII. VENUE:

A. All Notices to Appear issued in Osceola County will be returnable to the County Court of Osceola County in the Osceola County Courthouse, Kissimmee.

XIII. CLERK OF COURT PROCESSING:

A. Receive and process all Notices to Appear issued for offenses committed within the geographical area of jurisdiction of the court served.

B. Receive, receipt for, account for and distribute in accordance with section 34.191, Florida Statutes, and other applicable statutes, once sentenced by the Court, all fines and court costs assessed upon conviction or plea of guilty of offenses charged under Notices to Appear issued pursuant to Florida Rule of Criminal Procedure 3.125.

C. Accept an appearance and plea of “Not Guilty,” in writing, in person or by an attorney, to a charge of committing a first or second degree misdemeanor offense, or a county or municipal ordinance violation, when a Notice to Appear was issued and have the case assigned for trial at a future date.

D. Retain the original of each Notice to Appear and Schedule of Witnesses and Evidence.

E. Schedule for arraignment and assign to a judge, who will handle all proceedings after arraignment.

F. Receive payment of all fines and costs resulting from Notices to Appear.

G. Receive motions for new hearings or in arrest of judgment pursuant to Florida Rules of Criminal Procedure, within prescribed time limits and notify the defendant or his counsel of the time scheduled for a hearing.

H. Maintain records of all cases processed, numbering and reporting for identification and statistical purposes, separately from cases disposed of in open court.

I. Issue a capias, pursuant to Florida Rule of Criminal Procedure 3.730, for the arrest of any resident of this State, or any non-resident upon whom process may be served in this State, who fails to respond to a Notice to Appear lawfully served upon such person. The capias shall be directed to all law enforcement officers, state, county or municipal, in the State, and may be executed in any county in this State.

J. Any additional duties or responsibilities as may be delegated by the Chief Judge of the Ninth Judicial Circuit.

XIV. PRETRIAL DETENTION:

A defendant arrested for a dangerous crime set forth in section 907.041, Florida Statutes, that is a capital felony, a life felony, or a felony of the first degree and the first appearance judge determines there is probable cause to believe the defendant committed the offense, shall be ordered to pretrial detention. The first appearance judge shall provide the defendant the date of the pretrial detention hearing, which shall be within five (5) days of the First Appearance. The State Attorney shall file its motion for pretrial detention within 24 business hours of the First Appearance. The Clerk of Court shall notify the assigned judge that a pretrial detention hearing has been set within twelve (12) hours of First Appearance.

XV. Returnable Dates and Locations:

A. Felonies:

Persons arrested for felony offenses and released from jail prior to arraignment are to report to the Osceola County Courthouse, 2 Courthouse Square, Kissimmee, FL 34741, for arraignment when notified by the Clerk of the Court.

B. Misdemeanors:

1. Misdemeanors:

Persons arrested for misdemeanor offenses which will be heard in the Osceola County Courthouse and who were released prior to arraignment, will be ordered to report before a judge of the appropriate division of County Court of Osceola County, to the courthouse upon dates and at locations set from time to time by the Administrative Judge of the County Court of Osceola County or his/her designee.

C. Traffic Offenses:

1. Traffic offenders returnable to the courthouse:

Persons arrested for traffic offenses which will be heard in the Osceola County Courthouse and who were released prior to arraignment, will be ordered to report before a judge of the appropriate division of County Court of Osceola County, to the courthouse upon dates and at locations set from time to time by the Administrative Judge of the County Court of Osceola County or his/her designee.

D. Persons released from custody after having appeared for arraignment in any court shall report on whatever date was scheduled at arraignment.

E. Emergency Procedures if Fiber Network System Not Operational:

If a problem occurs with the system, the trial clerk will call the emergency technician using the pager number provided. The technician will call to determine the extent of the problem and approximate time to repair. In the event the system cannot be repaired in a reasonable time, the presiding judge and court personnel may travel to the Osceola County Jail Facility Courtroom to conduct First Appearance proceedings live, or as directed by the Chief Administrative Judge.

XVI. Osceola County Mental Health Pretrial Release (MH/PTR):

Any accused person may be released into the Osceola County Mental Health Pretrial Release Program after first appearance provided that:

1. The Osceola County Mental Health Pretrial Release Program certifies at first appearance to the court that it has investigated or otherwise verified that the accused person is currently suffering symptoms from a severe and persistent mental illness under the current Diagnostic and Statistical Manual of Mental Disorders, and provides to the court a preliminary treatment plan to meet the individual's needs and that the arrestee is an Osceola County Resident or the individual can access the appropriate treatment services in an adjacent county;

AND THAT,

2. The accused person must meet the following qualifications:

a. The accused person does not have any current charges for driving under the influence or have current charges or a prior conviction for murder, attempted murder, sex crimes, home invasion, robbery, crimes against children, aggravated battery, or any other capital life felonies;

b. The accused person is not currently on bail (monetary or non-monetary) or other legal constrain;

c. The accused person has not exhibited mental illness or behavior indicating he/she might cause harm to himself/herself or another;

d. If the accused is on community control, probation or parole, approval must be granted by the officer supervising the accused person;

e. Any accused person with an active domestic violence injunction/protection order, or currently charged with domestic violence must have victim input;

f. An arrestee shall not be released without the judge's authority under this program if any law enforcement officer or the State Attorney has communicated his/her objection release under this program;

Release under this Program shall include a condition that the person comply with all orders of the court, appear at all court hearings, refrain from any criminal activity, refrain from contact with any alleged victims, and any other condition specifically ordered by the court. If a person meets the guidelines for participation in the Mental Health Pretrial Release Program, he/she may be required to obtain a mental health evaluation through the designated provider and participate in all treatment including taking prescribed medication. If a person released under this Program violates any condition of release or is arrested for a crime for which probable cause has been found by a judge, the Program shall apply to the judge assigned to have his/her release revoked and have a warrant issued.

It is anticipated that occasionally accused persons who do not meet the requirements of this Order may, due to other circumstances, appear to be acceptable candidates for participation in the Mental Health Pretrial Release Program. In those cases, specific orders allowing the release from jail will be sought from the first appearance judge or if charges have been filed, the assigned judge.

3. Criteria for the Extension of the Limits of Confinement for the Purposes of Mental Health Evaluation and Treatment:

a. Accused persons who meet the following conditions may be transferred to a Baker Act receiving facility until such time as the Baker Act receiving facility staff determines that the offender may be safely returned to the custody of the jail:

Accused persons who are charged with misdemeanors, traffic cases, and second and third degree felonies will be considered eligible for the extension of limits of confinement, as established in this Order. However, accused persons whose instant offense is a felony sex offense, or involves the use of a deadly weapon will not be granted an extension of the limits of confinement under the terms of this Order. Specifically, the following crimes will not be accepted under the terms of this Order:

(1) Criminal Justice Criteria:

Any Homicide
Any Sexual Battery
Any Offense involving the use of a deadly weapon
Any Lewd and Lascivious Act

(2) Mental Health Criteria:

Accused person meets criteria for involuntary examination as defined in section 394.463(1), Florida Statutes, as determined by a physician, psychologist licensed pursuant to chapter 490, Florida Statutes, a psychiatric nurse or licensed clinical social worker.

(3) Appointment of the Public Defender:

In actions for involuntary placement under chapter 394, section 394.467, Florida Statutes, where a person is subject to involuntary placement, the Public Defender shall be automatically appointed to represent such persons. This Administrative Order shall provide the authority for appointments of the Public Defender in lieu of the issuance of a Court order in each case.

XVII. Home Confinement Program (HC):

It is the policy of this State that persons committing serious criminal offenses, posing a threat to the safety of the community or the integrity of the judicial process, or failing to appear at trial be detained upon arrest. However, persons found to meet specified criteria shall be released under certain conditions until proceedings are concluded and adjudication has been determined. The policy of pretrial detention and release will assure the detention of those persons posing a threat to society while reducing the costs for incarceration by releasing, until trial, those persons not considered a danger to the community who meet certain criteria. The Home Confinement Program provides the judiciary another alternative to incarceration for pretrial detainees awaiting trial. In addition to a court order, the accused person must meet the following qualifications:

1. Home Confinement can only be supervised utilizing GPS equipment which has a radio frequency component. This requires all persons who are accepted into the Home Confinement Program to wear a GPS monitoring device. This condition cannot be waived;

2. The accused person must live in an approved residence within Orange or

Osceola Counties, (some areas of Polk County are also considered);

3. If home confinement is ordered as a condition of bond, the bond must be paid prior to releasing the accused person;

4. The accused person must have a standard land line phone with basic phone service with no added features and toll free access. Cell phone service is not sufficient;

5. The accused person cannot have any holds for any other criminal matters;

6. The accused person is not serving a jail sentence for another charge;

7. It is recommended that the accused person have a risk assessment score³ of Moderate or High for participation in the Home Confinement Program. Low and Low Moderate risk defendants have a higher rate of success without this level of supervision.

8. The accused person does not have any current charges of murder, attempted murder, sex crimes, home invasion, robbery, crimes against children, or any other capital life felonies.

Only persons who meet the criteria established herein and are referred by the court to the Home Confinement Program will be accepted. Random substance abuse testing is completed to ensure the accused person's sobriety. The accused person's movement is restricted to essential travel only (essential travel is to be limited to employment, educational programs, court ordered conditions, or medical or lawyer appointments). If a person released under this Program violates any condition of release or is arrested for a crime for which probable cause has been found by a judge, the Program shall apply to the judge assigned to have his/her release revoked and have a warrant issued.

If an accused person is ordered to the Home Confinement Program and it is determined that the accused does not meet the criteria for acceptance into the Home Confinement Program, the jail must notify the judge who ordered the home confinement. The accused must then be brought before the assigned judge to set new terms of release.

If and when the Home Confinement Program reaches capacity as determined by the Osceola County Chief of Corrections in consultation with the Chief Judge, the Chief of Corrections shall have the authority to refuse admittance of anyone into the Program until such time as space becomes available.

³ A pretrial risk assessment instrument is a one-page summary of the characteristics of an individual that presents a score corresponding to their likelihood to fail to appear in court or be re-arrested prior to the completion of their current case. This instrument consists of 11 questions about the nature of the current offense, criminal history, employment, residency, drug and mental health, and other stabilizing factors. Responses are weighted, based on data that shows how strongly each item is related to the risk of flight or re-arrest. The answers are tallied to produce an overall risk assessment score.

XVIII. Consolidation and/or Transfer Regarding Felony Cases, Misdemeanor Cases, and Traffic Cases:

The Chief Judge shall have authority to reassign and assign cases among the various divisions of the Circuit and County Courts and their subdivisions, as well as between the County and Circuit Courts of the Ninth Judicial Circuit as may be appropriate. (07-85-21).

Under the authority vested in the Chief Judge pursuant to Rule 2.215(b)(5) of the Florida Rules of Judicial Administration, various administrative orders and directives of the Chief Judge may be entered regarding the authority of the administrative judges to reassign cases. (07-85-21 with changes). A pending case is defined as one in which an information has been filed and the defendant has not been tried or sentenced.

A. Felony cases: No other judge other than the Chief Judge, the administrative judges and the assigned first appearance judge as authorized by the Chief Judge from time to time shall have any authority to reassign any felony cases. If any judge, other than the Chief Judge, his designated administrative judges or his designated first appearance judge, has or shall reassign any felony case such reassignment shall be null and void and of no force and effect. Any such felony case so reassigned by any other judge shall not be considered reassigned and the Clerk shall not so reassign the case. (07-85-21 with changes).

1. Felonies cases for the same defendant which are assigned to various felony divisions shall be reassigned to the division with the lowest case number without the approval of the Chief Judge or the Administrative Judge of the felony divisions.
2. Individuals who are on felony probation, shall have new law violations reassigned to the division with the felony probation pending, without the approval of the Chief Judge or the Administrative Judge of the felony divisions.
3. Before an information is filed, felony cases involving co-defendants shall have the co-defendants cases transferred to the division with the lower case number without the approval of the Chief Judge or the Administrative Judge of the felony divisions. (07-97-52, par. 3 is vacated).
4. New cases involving the defendant and other defendant(s) are not to be reassigned by virtue of this Order.
5. In the rare event that cases involving co-defendants, filed in a single information, are assigned to more than one division (i.e., co-defendant A is assigned to division 10 and co-defendant B is

assigned to division 12), the Clerk of Court shall assign that single case to the division to which co-defendant A is assigned.

B. Misdemeanor / Traffic cases:

1. When both criminal traffic and criminal misdemeanor cases arising out of the same criminal episode are pending for the same defendant, counsel for the State, counsel for the defendant, or the defendant may file in the case a Request for Administrative Transfer or request in open court that a transfer occur and the Clerk of Court is hereby directed to transfer the case(s) pending in the criminal misdemeanor case to the Division with the criminal traffic case, without the necessity of further court order.
2. When both criminal traffic and criminal misdemeanor cases are pending, but the cases are not related other than the same defendant is charged in each case, then either the State or the Defendant may file in the cause a Request for Administrative Transfer or request in open court that a transfer occur and the Clerk of Court is hereby directed to transfer the case(s) pending to the Division which has the case where the earliest date of offense occurred.
3. When a defendant has more than one criminal traffic case pending, but the cases are not related except that the same defendant is charged in each case, then either the State or the defendant may file in the case a Request for Administrative Transfer and the Clerk of Court is hereby directed to transfer the case(s) pending to the Division which has the case where the earliest date of offense occurred.
4. When a defendant has either criminal misdemeanor or criminal traffic case(s) pending and there are also non-criminal traffic infractions arising out of the same episode, then either the State or the defendant may file in the cause a Request for Administrative Transfer or request in open court that a transfer occur and the Clerk of Court is hereby directed to transfer the non-criminal traffic infractions to the Division assigned the criminal misdemeanor or criminal traffic case, without the necessity of further court order.
5. In no event shall misdemeanor/traffic cases transfer or be consolidated if they are in capias status.

C. Miscellaneous matters relating to transfers/consolidations regarding felony, misdemeanor and traffic cases:

1. Nothing in this Order is meant or intended to require or preclude the filing of Motions or Orders that may call for the transfer,

reassignment or consolidation of other cases as the circumstances of such other may require. (07-97-52, par 4 included).

2. The attorney representing the State of Florida or the attorney of record for the defendant may file a Motion for Transfer and shall provide the motion and proposed Order to the court. The private attorneys moving for transfer must provide addressed, stamped envelopes along with the proposed order. The motion, order, and envelopes shall be provided to the administrative judge of the criminal division. No judge other than the Chief Judge, or the administrative judges as authorized by the Chief Judge from time to time, shall have the authority to reassign any felony cases.
3. Upon the filing of an information charging a defendant with a crime other than is charged in the arrest affidavit, the State Attorney shall determine if the new crime charged is within the jurisdiction of the same court. If the new crime charged is not within the jurisdiction of the court to whom the case was originally assigned, the State Attorney shall deliver a signed Motion to Transfer to the Clerk of the Court to whom the case was originally assigned, reciting the ground for the transfer and advising the Clerk of the Court to whom the case should be transferred. In the Motion to Transfer, the State Attorney may direct the Clerk to dismiss a capias and to issue a summons directing the defendant to appear to answer the new charge. Upon receipt of the motion, the Clerk shall, by authority of this Administrative Order, transfer the case file to the Clerk of the Court to whom the transfer has been requested. (07-89-05, incorporated).

XIX. Establishment of Procedures to Effect Florida Rule of Criminal Procedure 3.134:

A. Hearings addressing violations of the 33-day rule shall be heard by the judge to whom the case is assigned.

B. Defense counsel and self-represented defendants shall file with the Clerk's Office Motions for Release and Notices of Hearings addressing violation of Florida Rules of Criminal Procedure 3.134 by 12:00 p.m. on the business day before the scheduled hearing and shall simultaneously forward via the most expeditious means possible, including e-mail, copies of the Motions and Notices to all interested persons, including the judicial assistant for the judge who is to preside over the hearing, the persons with the State Attorney's Office and the Osceola County Sheriff's Office.

C. Immediately upon receipt of the Notice of Hearing and if possible by 12:00 p.m. on the business day before the scheduled hearing, the judicial assistant for the judge who is to preside over the hearing shall forward via the most expeditious means possible, including e-mail, copies of the Notices to the persons with the State Attorney's Office and the persons with the Clerk of Court's Office.

D. Should defense counsel or self-represented defendants file on a Friday or day prior to a holiday, the matter will be scheduled on the next following business day.

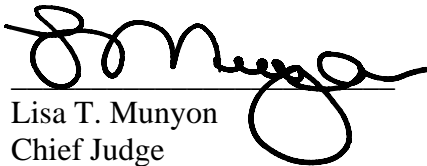
E. Defense counsel must contact the judicial assistant for the judge who is to preside over the hearing to obtain hearing time prior to filing any Notice of Hearing.

XX. Vacating/Incorporation of Related Administrative Orders and Review Provision:

A. Administrative Order 07-98-47-22 is vacated and set aside except to the extent that it has been incorporated and/or amended herein. Vacating an Administrative Order that vacates a prior Order does not revive the prior Order.

B. Administrative Order No. 2003-19-01 addressing involuntary placement proceedings in the Mental Health Division is also incorporated herein, but shall also remain in effect for post first appearance proceedings.

DONE AND ORDERED at Orlando, Florida, this 30th day of August, 2024.



Lisa T. Munyon
Chief Judge

Copies provided to:
Clerk of Courts, Orange County
Clerk of Courts, Osceola County
General E-Mail Distribution List
<http://www.ninthcircuit.org>