20060014361 RECORDED IN PUBLIC RECORDS LEON COUNTY FL BK: 3455 PG: 448,
02/15/2006 at 10:43 AM, BOB INZER, CLERK OF COURTS

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT

OFFICE OF THE CHIEF JUDGE

FIRST AMENDED
ADMINISTRATIVE ORDER NO. 2006-02

IN RE: UNIFORM BOND SCHEDULE AND PRETRIAL RELEASE PROCEDURES SECOND JUDICIAL CIRCUIT, FLORIDA

WHEREAS, F.R.Cr.P. 3.131 provides that unless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime or a violation of a municipal or county ordinance shall be entitled to pretrial release on reasonable conditions. If no conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained; and

WHEREAS, section 903.046, Florida Statutes, provides that the purpose of a bail determination 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; and

WHEREAS, section 903.046, Florida Statutes, also provides that in determining whether to release a defendant on bail or other conditions, and what that bail or those conditions may be, the court shall consider the nature and circumstances of the offense charged; the weight of the evidence against the defendant; the defendant's family ties, length of residence in the community, employment history, financial resources and mental conditions; the defendant's past and present conduct related to criminal history; probability of danger to the community; the source of funds to post bail; and the defendant's legal status; and

WHEREAS, section 903.046, Florida Statutes, also provides conditions of pretrial release; and

WHEREAS, there is a need for continued use of a uniform set of standards to ensure a consistent, objective basis for pretrial release and conditions of release; it is therefore,

ORDERED THAT:

I. GENERAL PROCEDURES

A. GENERAL AUTHORITY

Pursuant to this order, there is hereby established a Bond Schedule and Pretrial Release Procedures for the Second Judicial Circuit. The Bond Schedule and Pretrial Release Procedures may be amended under authority of this order.

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B. DUTY TO EVALUATE

1. BOOKING OFFICER

For purposes of this administrative order, the term "booking officer" shall mean the employee of the receiving facility who receives the defendant from the arresting officer. It will be the booking officer's responsibility to gather the following information and provide it to the Pretrial Release Officer:

a. The defendant's identity;

b. The defendant's prior record, including national, state, and local charges;

c. The existence of any pending prosecutions or warrants, and whether the defendant is currently on probation;

d. Whether the arrest is as a fugitive from another state, a warrant from another county, a warrant of the parole commission, a bondsman recommit, or other civil matter such as child support or cash purge cases (as to defendants in this category, no further review needs to be conducted);

e. The defendant's most recent release date from the Department of Corrections, if applicable; and

f. If a defendant is arrested for violating probation or community control, determine whether a "danger to the public" hearing pursuant to section 948.06(4), Florida Statutes, (Jessica Lunsford Act) is required.

2. LEON COUNTY SUPERVISED PRETRIAL RELEASE PROGRAM

An officer of the Leon County Supervised Pretrial Release Program (SPRP) shall be on duty at the Leon County Detention Center every day, twenty-four hours a day. The Pretrial Release Officer shall be responsible for collecting initial information from each defendant for use in determining eligibility for pretrial release, unless the defendant has posted bond under the uniform bond schedule, or unless a bond and the conditions relating thereto, if any, have previously been established by a judge of competent jurisdiction, and those provisions have not been countermanded by this administrative order. The information shall include:

a. Whether the defendant has a verifiable, permanent local address;

b. The extent of the defendant's ties, if any, to the community;

c. The existence of any pending domestic violence injunctions or history of injunctions; and

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d. An application/affidavit of indigency for public defender and acknowledgment of statutory public defender application fee. This information shall be recorded on a pretrial release intake interview form, attached to other pertinent arrest documents, including the probable cause affidavit and the victim statement, if applicable, and provided to the Court at first appearance.

C. CLASSIFICATION

All detainees shall be classified by the booking officer as either eligible for immediate release on monetary bond/release on recognizance or requiring further review. The SPRP officer shall further classify the remaining individuals as first appearance required or eligible for the SPRP and/or monetary release.

In a Leon County case, if a judge sets a bond on a warrant and also indicates that the defendant can be treated as if arrested on view, the booking officer/SPRP shall process the defendant as if arrested on view if the defendant is arrested or detained in Leon County. Defendants arrested outside of Leon County shall only be released pursuant to the bond amount set on the warrant.

D. OTHER COUNTIES

In those counties not having a supervised pretrial release program involved in cases prior to first appearance, the booking officer shall be responsible for all of the above duties.

E. FIRST APPEARANCE REQUIRED (FAR)

1. OFFENSES REQUIRING FIRST APPEARANCE

The following offenses shall require a first appearance unless otherwise specified by the judge issuing the warrant. For purposes of this section, any attempt or conspiracy charge shall be treated the same as the substantive offense.

OFFENSES PUNISHABLE BY LIFE IMPRISONMENT:
All Felony charges classified as Capital Felonies;
All Felony charges classified as Life Felonies;
All Felony charges classified as First Degree Felonies Punishable By Life;

SEX OFFENSES:
Sexual Battery (Section 794.011);
Lewd or Lascivious Offenses (Section 800.04);

CRIMES OF VIOLENCE:
Aggravated Battery (Section 784.045);
Aggravated Assault with Deadly Weapon (Section 784.021);
Any Murder or Attempted Murder including Manslaughter, Driving Under the Influence Manslaughter, and Vehicular Homicide;
Aggravated Stalking (Section 784.048[3]);

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Stalking (Section 784.048[2]);
Domestic Battery (Section 784.03);
Kidnaping (Section 787.01);
False Imprisonment (Section 787.02);
Neglect/Abuse of Elderly (Section 825.102);
Violation of Injunction charges (Sections 741.31 and 784.047);
Violation of Pre-trial Release charges (Section 741.29);

ROBBERY:
Home Invasion Robbery (Section 812.135);
Carjacking (Section 812.133);

CRIMES AGAINST CHILDREN:
Sexual Performance By A Child (Section 827.071);
Selling or Buying of Minors (Section 847.0145);
Child Abuse (Section 827.03);

BURGLARY:
Burglary of a Dwelling (Sections 810.02[3][a] and [b]);
Burglary of Occupied Structure (Section 810.02[3][c]);

WEAPONS OFFENSES:
Unlawful Throwing, Placing or Discharging of a Destructive Device or Bomb (Section 790.19);
Possession of a Fire Bomb (Section 806.111);
Possession of Firearm by Convicted Felon (Section 790.23);

WITNESS CRIMES:
Tampering with a Witness (felony) (Section 914.22[1]);
Retaliating against a Witness (Section 914.23);

ESCAPE:
Escape (Section 944.40);
Escape from Juvenile Facility (Section 985.3141);

MISCELLANEOUS CRIMES:
Aircraft Piracy (Section 860.16);
Trafficking in any controlled substance (Section 893.135);
Arson (Section 806.01);
Failure to Register as a Sex Offender or Sexual Predator (Section 943.0435);
Giving False Name to Officer (Section 837.05) - when defendant's true identity is unknown or seriously questioned;
All Driving Under the Influence charges (Section 316.193) not a first offense; and
All Driving Under the Influence charges (Section 316.193[3]) when personal injury involved.

2. OTHER CIRCUMSTANCES REQUIRING FIRST APPEARANCE EVEN WITH WARRANT

Even if a warrant has been issued by a judge setting a specific bond amount, the defendant shall be held for first appearance if arrested

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under the following circumstances unless the judge issuing the warrant specifically indicated being aware of these circumstances:

a. Any defendant arrested for any felony or a misdemeanor involving actual or threatened violence when the defendant is on felony supervision (probation or community control) or is on bond or pretrial release for a pending felony or violent misdemeanor case;

b. The booking officer has determined pursuant to Section I. B. 1. (f) above that the defendant is charged with violating misdemeanor or felony probation or community control and meets the Jessica Lunsford Act criteria under section 948.06(4), Florida Statutes. First Appearance is required even if the defendant was arrested on a violation of supervision (probation or community control) warrant that would otherwise have allowed release, unless the judge issuing the warrant specifically found that the defendant was not a danger to the public;

c. The defendant is suffering from a mental or emotional illness and it appears that release would endanger the safety of the defendant or others;

d. The pretrial release officer has made a written request that the defendant be held for first appearance stating a bona fide reason for denying bond under the bond schedule. The reason must be limited to the defendant's likelihood of appearance or the safety of the community.

3. OTHER CIRCUMSTANCES REQUIRING FIRST APPEARANCE UNLESS A WARRANT INDICATES OTHERWISE

Defendants in the following circumstances should be held for first appearance unless there is a warrant issued by a judge of competent jurisdiction setting the terms of release:

a. Any felony offense in which the defendant is alleged to have actually possessed or discharged a firearm;

b. All felony cases in which the defendant has been released from prison within 3 years of the current offense;

c. All violation of probation on view arrests;

d. The arresting officer has made a written request that the defendant be held for first appearance stating a bona fide law enforcement reason supporting the need for a first appearance.

F. LAW ENFORCEMENT EXCEPTION TO FIRST APPEARANCE REQUIRED

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An arresting officer making an on view arrest who determines that the facts and circumstances do not warrant holding a defendant for first appearance may make a written request that the defendant be released. Based on this request, the pretrial release or booking officer may authorize the defendant to be released on SPRP or monetary bond provided the defendant has no other pending charges and no convictions for any misdemeanor involving violence or any felony.

G. MANDATORY CONDITIONS

Certain special conditions are mandatory depending on the charge against the defendant. These conditions apply regardless of the nature of the defendant's release, including persons released on monetary bonds or on their own recognizance. These special conditions shall apply in the following circumstances:

1. *Alcohol Offenses.* Alcohol abstinence shall be required in all offenses in which the use of alcohol is an element, including, but not limited to, all charges for driving under the influence, disorderly intoxication and underage drinking.

2. *Criminal Activity.* The defendant shall also refrain from any future criminal activity.

3. *Victim Contact.* As required by section 903.047, Florida Statutes, the defendant shall refrain from having any contact with the victim, directly or indirectly. This shall include the defendant having no contact with the property or premises where the alleged crime took place.

4. *Drug Offenses.* Random urinalysis shall be required for any Defendant charged with a felony violation of Chapter 893, Florida Statutes, who has a prior conviction for a drug offense under chapter 893 (either felony or misdemeanor). In counties having a supervised pretrial release program, these persons will be subject to supervision of the SPRP even though a monetary bond may also be required. The Defendant shall bear all costs of testing and supervision, absent court order to the contrary.

Unless the alleged victim is present at the first appearance and is given an opportunity to be heard, the no-contact condition set forth in 3 above, shall not be deleted or modified except by the judge having trial jurisdiction of the offense. The booking officer will ensure that each defendant sign an acknowledgment of these provisions, witness the document and submit the original document to the court file. The form of acknowledgment is attached to this order.

H. ADDITIONAL PROVISIONS BY TRIAL JUDGE

In any case where a defendant has been released pursuant to this administrative order before first appearance, pursuant to notice and hearing the assigned trial judge may impose additional conditions of release to protect the community from risk of physical harm, to assure the presence of the accused at trial, or to assure the integrity of the judicial process.

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II. LEON COUNTY SUPERVISED PRETRIAL RELEASE PROGRAM PROCEDURES

A. GENERAL PROVISIONS

The SPRP was established to provide an alternative to monetary bail for those Defendants who are likely to appear in court and unlikely to present a danger to the community. Release under the supervision of the SPRP shall be subject to the procedures set forth in subparagraphs B., C. and D.

B. VERA POINT SCALE

All persons arrested and admitted to the Leon County Detention Center, charged with a second degree nonviolent felony or lower offense, shall be evaluated under the VERA Point Scale and, if found to have a score of four (4) points or more, shall be released on his or her own recognizance with conditions deemed appropriate by the pretrial release director or designee, provided that the other criteria outlined in Section C (Eligibility for Pretrial Release) of the Attached Leon County Pretrial Release Procedures are met. A "violent crime" means any crime which injures or threatens to injure another person.

C. ELIGIBILITY FOR PRETRIAL RELEASE

The pretrial release officer shall evaluate each Defendant charged with a second degree nonviolent offense or lesser offense using the VERA point scale to determine eligibility for pretrial release. A Defendant who has made a written request for pretrial release and who has a verified address in the Second Judicial Circuit and a verified point score of four (4) or greater on the VERA point scale shall be eligible for release unless one of the following conditions exist:

1. The Defendant has a history of an escape or an unexcused failure to appear.

2. The Defendant was taken into custody on a warrant that indicates a specific monetary amount, that the Defendant should be held without bond or that the Defendant should be held for first appearance.

3. Pursuant to section I. E. above a first appearance is required.

D. CONDITIONS OF SUPERVISED PRETRIAL RELEASE PROGRAM

1. General Conditions

   Pretrial release officers have the authority to require a Defendant to meet any of the following conditions of release under the SPRP:

   a. Regular contact with the pretrial release officer.

   b. No contact with the victim.

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c. No return to the property in question.

d. No weapons or firearms.

e. Abstinence from alcohol.

f. Curfew.

g. Surrender of passport.

h. Limitations on residence and travel.

i. Screening for mental illness, drug abuse, or alcohol abuse.

j. Random testing, including urinalysis, for drugs or alcohol.

k. Maintain full-time employment or school.

l. Employment search.

m. Any other condition necessary to ensure community safety.

2. Violations

If any Defendant released under the supervision of the pretrial release program violates any of the conditions of release, the officer shall prepare an affidavit and a proposed order to show cause why the Defendant's pretrial release should not be revoked. The affidavit and proposed order to show cause shall be presented to the assigned trial judge. Emergency situations during non-business hours, as determined by the pretrial release officer, shall be presented to any available judge. Any individual arrested under the emergency procedures must be brought before a judge within 24 hours. Otherwise, violations of pretrial release conditions should be promptly presented to the judge having trial jurisdiction over the case. "Emergency situations" shall be defined as circumstances necessary to protect the community from risk of personal injury, to assure the presence of the accused at trial, or to assure the integrity of the judicial process. These procedures shall not be interpreted to extend or limit a law enforcement officer's authority to make a warrantless arrest for violating a condition of release.

III. OTHER COUNTIES - SUPERVISED PRETRIAL RELEASE PROGRAMS

Counties other than Leon County are authorized to develop separate procedures for a supervised pretrial release program as approved by the Chief Circuit Judge in consultation with the judges handling criminal matters in the respective counties.

IV. BOND SCHEDULE

These bond amounts shall apply circuit wide. Absent other specific provision to the contrary set out in this administrative order, a defendant shall be entitled to release upon posting the following specified bond amounts. In Leon County, these bond amounts will apply regardless of the defendant's eligibility for the SPRP:

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Bond should be set at $25,000 on the following charges:
All first degree felonies

Bond should be set at $10,000 on the following charges:
All other second degree felony property crimes
Fleeing and Eluding Law Enforcement Officer (Section 316.1935)
All second degree felony drug charges

Bond should be set at $5,000 on the following charges:
Grand Theft Firearm (Section 812.014[2][c]5)
Grand Theft Motor Vehicle (Section 812.014[2][c]6)
Insurance Fraud (Section 817.234[11][a])
Driving While License Suspended or Revoked with Injury (Section 322.34[6][b])
All other third degree felony burglary charges
Criminal Use of Personal Identification (Section 817.568)

Bond should be set at $2,500 on the following charges:
Grand Theft (not otherwise specified herein) (Section 812.014)
Credit Card Fraud (Section 817.481)
Forgery (Section 831.01)
Uttering (Section 831.02)
All third degree felony drug charges
Providing False Information To Officer With Adverse Affect (Section 901.36[2])
Unemployment Compensation Fraud (Section 443.071[1])

Bond should be set at $1,000 on the following charges:
Felony Dumping
Defrauding a Pawnbroker
Public Assistance Fraud $200 or more (Section 414.39[5][b])
Felony Petit Theft (Section 812.014[3][c])
Felony Driving While License Suspended or Revoked (Section 322.34[2][c])
All other third degree felony crimes
Cruelty to Animals (Section 828.12)

Bond should be set at $500 on the following charges:
All other first degree misdemeanors
All first offender misdemeanor Driving Under the Influence charges

Bond should be set at $250 on the following charges, if the defendant does not have a verifiable local address, and release on recognizance (ROR), if the defendant does have a verifiable local address:
All other second degree misdemeanors
All county and city ordinance violations

V. TERMINATION OF OTHER ORDERS/EFFECTIVE DATE

Administrative Orders 2003-8 and 2003-10 and the subsequent amendments to those orders are hereby terminated. This order becomes effective immediately.

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DONE AND ORDERED at Tallahassee, Leon County, Florida, this 13th day of February, 2006.

Charles A. Francis

CHARLES A. FRANCIS
Chief Circuit Judge

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