

**IN THE SECOND JUDICIAL CIRCUIT
OF FLORIDA**

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER 2019-06

IN RE: FIRST APPEARANCE AND PRETRIAL DETENTION PROCEDURES

I. FIRST APPEARANCE.

The purpose of this administrative order is to provide uniform procedures and ensure adequate resources to comply with the mandates of the constitutions of the United States and the State of Florida, the Florida Statutes and Rules of Criminal Procedure, and appellate authority for arrestees who are not released within 24 hours of arrest. Definitions provided in Administrative Order 2019-05, In Re: Uniform Bond Schedule and Pretrial Release Procedures, apply equally to this order.

A. Individualized Inquiry by Judge at First Appearance.

1. All persons brought before a judge for first appearance are entitled by law to an individualized inquiry, based on the specific circumstances of the arrestee and alleged, to determine whether the arrestee should be released and the conditions of release pending further proceedings and trial.
2. Section 907.041(1), Florida Statutes, provides for “a presumption in favor of release on nonmonetary conditions for any person who is granted pretrial release unless such person is charged with a dangerous crime” as defined in that section.
3. Administrative Order 2019-05, In Re: Uniform Bond Schedule and Pretrial Release Procedures, applies to the Booking Officer, not to the first appearance judge or any other judge. The Bond Schedule is not intended to bind any judge or guide any judge’s exercise of discretion in determining whether to require bail and the amount of any bail.

B. Record of First Appearance, Release Conditions, and Basis.

1. Effective April 15, 2019, first appearance in Leon County shall begin during the work week no earlier than 11:00 a.m. to permit time for the Pretrial Release Officer (“PRO”) and Office of the Public Defender gather information and communicate with the arrestee.
2. First appearance in Franklin, Gadsden, Jefferson, Liberty, and Wakulla Counties shall begin during the work week at a time set by the presiding judge.



3. First appearance during the weekend shall begin at the time designated by the assigned duty judge to permit adequate time to conduct first appearance, juvenile delinquency detention and juvenile dependency shelter hearings for the six counties of the circuit.
4. All first appearance hearings before a judge shall be digitally court reported and all rulings and decisions of the first appearance judge shall be of record, including the basis for such decisions.
5. The first appearance judge is required by law to conduct an individualized inquiry regarding each arrestee who is not released by the Booking Officer or PRO and determine:
 - a. Whether the arrestee has the ability to pay bail.
 - b. Whether money bail posted before release is necessary under the circumstances of the arrestee and alleged offense to secure the arrestee's appearance at trial, protect the public and assure the integrity of the judicial process.
 - c. Whether alternatives to monetary security, including conditions of release, would provide adequate assurance of the arrestee's appearance, the safety of the community and the integrity of the judicial process. The judge may consider:
 - (1) Release on personal recognizance of the arrestee.
 - (2) Unsecured bond per Rule 3.3131(b)(1)(B) of the Florida Rules of Criminal Procedure.
 - (3) Restrictions on travel, association or residence.
 - (4) Limitations on activities such as house arrest.
 - (5) Specific form and frequency of communication with the PRO – checking in as directed.
 - (6) Submission to a mental health screening and compliance with recommendations for treatment.
 - (7) Submission to a substance abuse screening and compliance with recommendations for treatment including substance abuse testing.
 - (8) Surrender of passport or other documents, and confinement to county of residence, counties of the Second Circuit or other specified geographic area.
 - (9) Availability and willingness to submit to alternative and specified supervision by a responsible adult, such as a family member, employer, clergy, or mentor.
 - (10) Limitations on access to means of electronic communication.
 - (11) Electronic monitoring if available.
 - (12) Willingness to comply with mandatory conditions of release on pain of rearrest and detention pending trial.



- (13) Any other conditions of release reasonably necessary to assure the arrestee's appearance for subsequent court dates, the safety of persons and the community and the integrity of the judicial process.
6. The first appearance judge is required by law to state the conditions of release and the basis for such conditions, including monetary conditions, on the record at the conclusion of each first appearance hearing. Such basis may include:
 - a. The facts of the alleged offense demonstrate a significant threat or risk of violence generally or to a specific person, victim or witness;
 - b. The facts of the offense demonstrate a significant threat or risk of substance abuse that threatens bodily injury to the public or to a specific person;
 - c. The facts of the alleged offense demonstrate a significant threat to the integrity of the judicial process such as a likelihood of failure or refusal to comply with conditions;
 - d. The facts of the alleged offense demonstrate a significant likelihood of commission of other offenses;
 - e. The arrestee's criminal history demonstrates a significant threat or risk of violence generally or to a specific person, victim or witness;
 - f. The arrestee's criminal history demonstrates a significant threat or risk of substance abuse that threatens bodily injury to the public or to a specific person;
 - g. The arrestee's criminal history demonstrates a significant threat or risk of commission of other offenses;
 - h. The arrestee's criminal history demonstrates a significant threat or risk to the integrity of the judicial process such as a likelihood of failure or refusal to comply with conditions;
 - i. The arrestee's financial resources;
 - j. The arrestee's connections to the community; and
 - k. Such other matters as may be demonstrated by the information gathered by the Booking Officer and Pretrial Release Officer or otherwise provided to the first appearance judge.

C. Courtroom and Schedule During the Business Week.

1. During ordinary business days, Leon County first appearance will be conducted by the Leon County Judges beginning at 11:00 a.m. in the Honorable Timothy D. Harley Video Conference Courtroom in the Leon County Courthouse. The administrative judge of county court is responsible to establish the judicial schedule for first appearance.
2. During ordinary business days, first appearance in Franklin, Gadsden, Jefferson, Liberty, and Wakulla Counties shall begin at a time and place set by the presiding judge.
3. The first appearance schedule shall be adequate to ensure sufficient time and resources so that every arrestee who is not released by the Booking Officer or the



PRO shall be afforded a first appearance hearing before a judge within one day of arrest.

D. Courtroom and Schedule During Weekends and Holidays.

1. During weekends and holidays, first appearance for the entire circuit will be conducted at the designated courtroom at the Leon County Detention Center beginning at the time designated by the assigned duty judge.
2. The chief judge will establish by separate memorandum an equitable schedule of responsibility for weekend and holiday duty for each county and circuit judge of the Second Circuit.

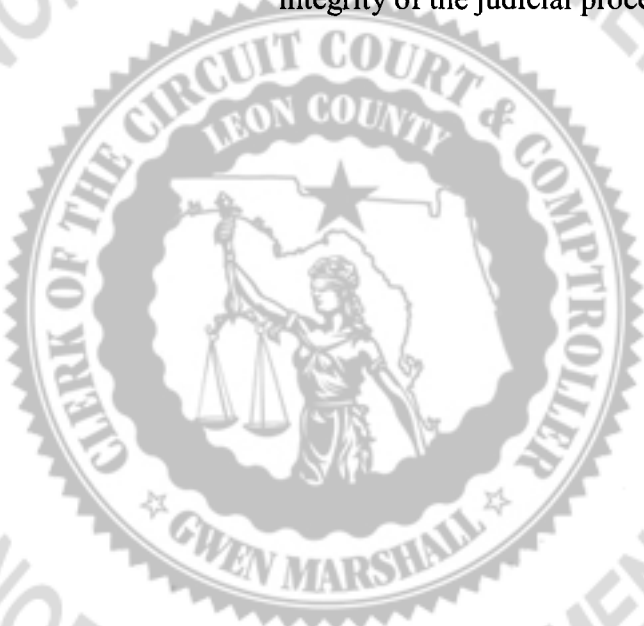
E. Pretrial Release Officer (PRO) to Attend and Provide Information.

1. A PRO shall attend each first appearance hearing conducted during the week in Leon County and at the Leon County Detention Center on weekends and holidays.
2. Attendees at first appearance in Franklin, Gadsden, Jefferson, Liberty, and Wakulla Counties shall be determined by the presiding judge.
3. The PRO is responsible to provide to the first appearance judge the specified information gathered by the Booking Officer and the PRO for each arrestee.
4. The PRO is responsible to inform the first appearance judge whether the arrestee was eligible for release by the Booking Officer or the PRO. If the arrestee was determined to be First Appearance Required (“FAR”), the PRO is responsible to inform the first appearance judge of the basis for that classification.
5. For arrestees eligible for release by the Booking Officer who remain in custody for first appearance, the PRO is responsible to summarize the arrestee’s ties to the community and financial means, to the extent practicable.
6. The PRO is responsible to provide the first appearance judge, to the extent practicable, alternatives to monetary security as a means for assuring appearance, safety and the integrity of the judicial process.

II. PRETRIAL DETENTION.

A. Order for Detention at First Appearance and Detention Hearing. Section 907.041(1), Florida Statutes, states:

LEGISLATIVE INTENT.—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 Legislature finds that this 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. It is the intent of the Legislature that the primary consideration be the protection of the community from risk of physical harm to persons.

- B.** Rule 3.132, Fla.R.Crim.P. establishes the procedure governing pretrial detention. The purpose of this administrative order is to establish processes to facilitate the procedure established by this Rule.
- C.** The first appearance judge may conduct an initial pretrial detention hearing to consider whether, pursuant to section 907.041(4), Florida Statutes, and Rule 3.132, Fla.R.Crim.P. it appears that “a substantial probability, based on a defendant’s past and present behavior, the criteria in section 903.046, Florida Statutes, and any other relevant facts” that pretrial detention is appropriate to protect the community, assure the appearance of the accused at subsequent proceedings or ensure the integrity of the judicial process.
- D.** Pretrial detention proceedings at first appearance may be commenced by motion or by inquiry of the judge. If, on inquiry the state represents that it intends to move for pretrial detention, the first appearance judge may grant the state up to three days to file a motion for pretrial detention and temporarily detain the arrestee.
- E.** If the state files a facially sufficient motion for pretrial detention at first appearance and the first appearance judge determines there is probable cause that the person committed the offense, the person may be detained in custody pending a final hearing on pretrial detention pursuant to Rule 3.132, Fla.R.Crim.P. Requests for further relief shall be addressed to the assigned trial judge upon motion pursuant to Rule 3.132(c), Fla.R.Crim.P.

III. TERMINATION OF OTHER ORDERS AND EFFECTIVE DATE. Administrative Orders 2003-8, 2003-10, 2006-02, 2018-06, and subsequent amendments to those orders are terminated effective April 15, 2019. This order becomes effective April 15, 2019.

DONE AND ORDERED at Tallahassee, Leon County, Florida, this 22nd day of March, 2019.



JONATHAN SJOSTROM
Chief Judge



UNOFFICIAL DOCUMENT