

IN THE CIRCUIT COURT OF THE SEVENTEENTH
JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

Order Number 2017-18-Crim

FIRST APPEARANCE DIVISION

(a) Florida Rule of Judicial Administration 2.215(b)(3) states the chief judge shall “develop an administrative plan for the efficient and proper administration of all courts within that circuit.”

(b) A First Appearance Division is established so that every arrested person may be taken before a judicial officer as required by law or rule of procedure¹ and to conduct violation of probation preliminary hearings for individuals in the custody of the Broward County Sheriff charged with a crime within the jurisdiction of county court.

(c) In accordance with the authority vested in the chief judge by Florida Rule of Judicial Administration 2.215, it is ordered effective April 17, 2017:

(1) **Date and Time.**

(a) A First Appearance docket shall be conducted at 8:30 a.m. and 1:30 p.m., Monday through Thursday of each week. On Fridays the First Appearance docket shall be on 8:30 a.m. and 1:00 p.m. Any individual who was arrested, and processing at the Broward County Jail or other detention facility is completed no later than 4:00 a.m., shall be placed on the 8:30 a.m. docket. Any individual who was arrested and processed at the Broward County Jail or other detention facility is completed no later than 9:00 a.m. shall be placed on the afternoon docket.

(b) On court holidays, Saturdays, and Sundays the First Appearance docket shall be conducted at 8:30 a.m. only.

(2) **Location.** The First Appearance hearings will be held at the Broward County Courthouse, 201, S.E. Sixth Street, Fort Lauderdale, Florida, with video links to any and all facilities where the arrested individual is detained by the Broward County Sheriff.

¹ If the arrested person is a minor and not being held on charges filed as an adult by the State Attorney, he or she, will not be brought before the First Appearance judge except on court holidays or weekends. If the arrested person is a minor, he or she, will be brought before the judge presiding over detention hearings Monday through Friday. The procedures for juvenile detention hearings are established by separate Administrative Order. If the minor is charged with a misdemeanor criminal traffic offense, he or she, shall be treated as an adult as required by law.

(3) **Required Attendance.** The following individuals shall be present at the First Appearance hearings: First Appearance judge² (herein judge), Clerk of Court or his designee (herein Clerk), State Attorney or his designee (herein State Attorney), Public Defender or his designee (herein Public Defender), Sheriff or his designee(s) (herein Sheriff) as necessary to provide security, Court Bailiff assigned by the Sheriff, Director of Pre-Trial Services³ or designee(s) (herein Director), and the individual being detained by the Sheriff. A Spanish Interpreter and Creole Interpreter shall be on call for the scheduled First Appearance dockets on Monday through Friday. If an interpreter is required and none is available, the judge shall determine if there is probable cause to continue to detain the individual and reset the matter for the next court business day on the afternoon docket so that an interpreter may be present at the hearing. The judge shall advise the Trial Court Administrator's Interpreter Services of the case number, date and time of the hearing, and language required. If the judge determines the detained individual voluntarily refuses to attend the First Appearance hearing, the judge shall determine probable cause for the absent individual as required by law or rule of procedure.

If the county or municipality has not entered into an agreement with the State Attorney pursuant to section 27.02, Florida Statutes, to prosecute only ordinance violations, the arresting entity shall have an attorney present at First Appearance Monday to Friday at 9:30 a.m. and 1:30 p.m. On weekends and court holidays the arresting entity shall have an attorney present at First Appearance between 9:00 a.m. and 10:00 a.m.

If the county or municipality has not entered into an agreement with the Public Defender pursuant to section 27.51, Florida Statutes, to represent individuals arrested for only ordinance violations, the arresting entity shall have an attorney or attorneys present

² Monday through Friday dockets will be heard by a county judge assigned by memo from the County Court Administrative Judge. A circuit or county judge will be assigned to First Appearance duties by memo from the Chief Judge to preside at dockets held on Saturday, Sunday, and court holiday. If a judge assigned to a First Appearance docket is not able to preside, for any reason, he or she shall secure a replacement and advise the Chief Judge, Trial Court Administrator, Administrative Judge for County Court, Chairperson for County Criminal Division, and Clerk, in writing, of his or her replacement. If the judge is not able to provide written notice, he or she, shall verbally advise the Chief Judge, Administrative Judge for County Court, Chairperson for County Criminal Divisions, and Clerk, and thereafter provide written notice. In the event a judge resigns or retires, the judge appointed/elected to fill the vacancy shall be responsible to preside at the dockets assigned to the judge who resigned or retired.

³ The Director shall interview all individuals charged with a crime except if the criminal charge, is a first degree felony punishable by life or capital felonies. The Director shall assess the risk to the community and of flight of each individual including criminal history, prior FTA's, and community ties and provide a release or detention recommendation to the First Appearance Judge which may include ROR, bond, Pretrial Services supervision, pretrial detention, or other form of release.

at First Appearance for appointment by the presiding judge for indigent individuals Monday to Friday at 9:30 a.m. and 1:30 p.m. On weekends and court holidays the municipality shall have an attorney present at First Appearance between 9:00 a.m. and 10:00 a.m.

The county and each municipality shall provide the Chief Judge, Clerk, Sheriff, and judge the name of the attorney who is prosecuting violations on its behalf and the name of the attorney to be appointed for indigent individuals charged with a only a municipal ordinance on the first of each month.

(4) Required pleadings/papers.

(a) The following documents shall be provided to the judge at the First Appearance hearing for each individual: booking slip, probable cause affidavit or other document setting forth the reasons for the individual's arrest, Pretrial Services Report, the individual's criminal history information⁴, completed Application for Criminal Indigent Status with the Clerk's determination if the individual is indigent, and court order for completion by the judge as to his or her determination.

(b) The Clerk shall provide a copy of the booking slip, probable cause affidavit or other document setting forth the reasons for the individual's arrest and any other paper as required by law or rule of procedure to the State Attorney, Public Defender, and Director.

(c) The Clerk or Sheriff shall prepare and provide to the judge, County Court Administrative Judge, State Attorney, Public Defender, Sheriff or Clerk, and Director a printed list of all cases heard at each First Appearance Docket. The Clerk and Sheriff shall confer to determine which entity will be responsible for providing the printed list as required by this provision.

(5) All individuals in the custody of the Sheriff being detained because of an arrest, warrant, capias, or order shall be brought before the judge for a hearing within twenty-four (24) hours of his or her arrest as required by law or rule of procedure.

(6) **Second Hearing before the First Appearance Judge.** If any individual is detained on a misdemeanor charge or municipal ordinance violation and not released from the Sherriff's detention facility where he or she is being held after being granted bond at his or her first appearance hearing within five (5) days there shall be a second hearing before the judge on the first court business day that is not a weekend or court holiday at the afternoon docket for First Appearance hearings. The Director shall prepare the list of individuals eligible for a second hearing and forward the list to the Clerk. The Clerk shall thereafter prepare and distribute a copy of the second hearing docket to the judge,

⁴ Administrative Order III-97-A-13A remains in effect. If the criminal history is not provided at the time of booking as set forth in Administrative Order III-97-A-13A, the criminal history shall be provided by the Sheriff.

County Court Administrative Judge, State Attorney, Public Defender, Office of Criminal Conflict and Civil Regional Counsel, Sheriff, and attorney retained by the county or each municipality to represent individuals charged with only a municipal ordinance violation.

(7) **In Custody Misdemeanor Violation of Probation.** If an individual is detained on a misdemeanor violation of probation warrant with no bond or is unable to post bond, he or she shall have an initial hearing on the violation of probation as required by law or rule of procedure at the date and time as set by the judge. The Clerk shall prepare the docket for the initial violation of probation hearing docket and distribute a copy of same to the judge, County Court Administrative Judge, State Attorney, Public Defender, Probation Office, and Sheriff. A status conference on the misdemeanor violation of probation, after the initial hearing, shall be heard as required by law, rule of procedure, or other administrative order for the 17th Judicial Circuit within five (5) court business days before the division judge. The county court judges shall provide to the First Appearance judge the dates and times when a violation of probation status conference may be set before him or her. The judge shall provide the date and time to the defendant, State Attorney, Public Defender or Office of Criminal Conflict and Civil Regional Counsel or private defense attorney, Probation Office, and Sheriff of the violation of probation hearing before the division judge. The Clerk shall provide a notice of the date, time, and location of the status conference on the violation of probation to the defendant, State Attorney, Public Defender or Office of Criminal Conflict and Civil Regional Counsel or private defense attorney, Probation Office, and Sheriff.

(8) **In Custody Felony Violation of Probation.** If an individual is detained on a felony violation of probation warrant, the Clerk at the First Appearance hearing shall advise the defendant of the date and time of his or her initial hearing before the division judge. Each division judge shall provide the Clerk with the dates and times that initial felony violation of probation hearings may be set.

(9) **Extradition Warrants and Extradition Hearings.** If an individual is detained on a warrant requesting or requiring extradition the Sheriff shall provide a docket of cases to be heard to the judge for division FI with a copy to the State Attorney, Public Defender, and Clerk. Any and all hearings required by law or rule of procedure shall be heard by the judge assigned to division FI.

(10) **Capias Detentions.** If an individual is detained on a capias, the judge shall direct the Clerk to set the case on the county criminal division judge's next docket for violation of probation and on a circuit criminal judge's next court business day docket.

(11) **Civil Detentions.** If an individual is detained on any civil writ or other non-criminal order requiring detention, the Sheriff shall advise the presiding division judge, Administrative Judge for the division, and Chief Judge of the individual's detention. If

the civil writ or other non-criminal order requiring detention is not a case pending in Broward County or the Seventeenth Judicial Circuit, the Sheriff shall advise the Administrative Judge for the division and Chief Judge of the individual's detention. In the absence of the Chief Judge and Administrative Judge for the division, the Sheriff shall advise the Circuit Civil Duty Judge of the individual's detention.

(12) **All Other Authorized Detentions.** If an individual is otherwise detained by the Sheriff for any reason in which there is no pending case in Broward County or the Seventeenth Judicial Circuit, the Sheriff shall advise Chief Judge of the individual's detention. In the absence of the Chief Judge the Sheriff shall advise the Circuit Criminal and Circuit Civil Duty Judges.

(13) **Additional Charges or Amended Charges.** If an individual in custody is charged with additional crimes or the initial charges are otherwise amended, the individual shall be heard on the next First Appearance docket as to the additional crimes or amended charges as required by law or rule of procedure.

(14) **Filing of Formal Charges.** If an individual remains in custody of the Sheriff for thirty (30) days from the date of arrest without an information being filed, a hearing on whether the individual may be released shall be heard by the First Appearance judge on the first court business day not a weekend or holiday at the afternoon docket for further proceedings as required by law or rule of procedure.

(15) **Authority of First Appearance Judge.** Any judge presiding at any hearing authorized by this Administrative Order shall have the full power and authority of a county judge or circuit judge, as necessary, based upon the matter presented for a determination.

(16) This Administrative Order vacates and supersedes Administrative Order 2017-3-Crim on April 17, 2017. Any and all other Administrative Orders, not inconsistent with this Administrative Order and not vacated remain in full force and effect.

DONE AND ORDERED in chambers at Fort Lauderdale, Broward County, Florida on
April 19, 2017, *nunc pro tunc* to April 17, 2017.

/s/ Peter M. Weinstein
Peter M. Weinstein, Chief Judge