

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

Administrative Order No. 2018-68-Crim

FIRST APPEARANCE DIVISION

(a) Florida Rule of Judicial Administration 2.215(b)(3) states the Chief Judge “shall, considering available resources, ensure the efficient and proper administration of all courts within [this] circuit.”

(b) A First Appearance Division is established to ensure every arrested person may be taken before a judicial officer as required by law or rule of procedure.¹

(c) It shall be the responsibility of all judges presiding over first appearance to determine probable cause and examine the custody status of all persons appearing before the first appearance judge. Public safety shall be the overwhelming consideration of all judges who establish a monetary bond, place persons on pretrial release or release the person on their own recognizance. For those persons who do not pose a threat to public safety, all judges shall first consider non-monetary release conditions.

(d) In accordance with the authority vested in the Chief Judge by Article V, section 2(d) of the Florida Constitution, section 43.26, Florida Statutes, and Florida Rule of Judicial Administration 2.215, it is hereby **ORDERED**:

(1) All first appearance proceedings shall be open to the public, except proceedings otherwise designated as confidential by court rule or Florida Statutes.

(2) **Date and Time.**

(a) **General.** A First Appearance docket shall be conducted at 8:30 a.m. and 1:00 p.m., Monday through Friday of each week. Any individual who was arrested, and completed processing at the Broward County Jail or other detention facility no later than 4:00 a.m., shall be placed on the 8:30 a.m. docket, except as otherwise provided

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.

in this Administrative Order. Any individual arrested, and completed processing at the Broward County Jail or other detention facility no later than 9:00 a.m. shall be placed on the afternoon docket, except as otherwise provided in this Administrative Order. Nothing in this Administrative Order precludes the judge presiding in first appearance to alter the schedule for judicial efficiency.

(b) On court holidays, Saturdays, and Sundays, the First Appearance docket shall be conducted at 8:30 a.m. only. First Appearance matters held on court holidays, Saturdays, and Sundays include shelter hearings, juvenile detention hearings, and misdemeanor and felony domestic violence matters.

(c) During any natural disaster or emergency closure of the courts, the Chief Judge shall determine the time and/or location for conducting first appearance hearings.

(d) Individuals arrested for violations of probation or community control shall not be taken before the first appearance judge, unless otherwise required under this Administrative Order, but shall be taken before the appropriate judge as set forth in paragraphs (9) and (10) of this Administrative Order.

(3) **Location.** The First Appearance hearings will be held in Room 4155 of the Broward County Courthouse-West Tower, 201 S.E. Sixth Street, Fort Lauderdale, Florida, 33301, with video links to any and all facilities where the arrested individual is detained by the Broward County Sheriff.

(4) **Required Attendance.**

The following individuals shall be present at the First Appearance hearings: First Appearance Judge² (First Appearance Judge), Clerk of the Courts or her designee (herein Clerk), State Attorney or his designee (herein State Attorney), Public Defender or his designee (herein Public Defender), Court Video Operator/Digital Court Reporter, Sheriff or his designee(s) (herein Sheriff) as necessary to provide security, Court Bailiff assigned by the Sheriff, Pre-Trial

² Monday through Friday dockets for all first appearance matters except misdemeanor and felony domestic violence cases will be heard by a county court judge assigned pursuant to a separate Administrative Order. A circuit or county court judge will be assigned to all First Appearance duties by memorandum from the Chief Judge to preside at dockets held on Saturdays, Sundays, and court holidays. 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 the County Court, Chairperson for the 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 the County Court, Chairperson for County Criminal Division, and Clerk, and thereafter provide written notice. In the event a judge resigns or retires, the judge appointed or elected to fill the vacancy shall be responsible to preside at the dockets assigned to the judge who resigned or retired.

Services³ or designee(s) (herein Director), and the individual being detained by the Sheriff.

A Spanish Interpreter and Creole Interpreter shall be on call/available for the scheduled First Appearance dockets on Monday through Friday. A Spanish Interpreter shall be on call/available for the scheduled First Appearance dockets on Saturdays, Sundays, and court holidays. If an interpreter is required and none is available, the First Appearance 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 First Appearance 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 First Appearance Judge determines the detained individual voluntarily refuses to attend the First Appearance hearing, the First Appearance Judge shall determine probable cause for the absent individual as required by law or rule of procedure.

(5) Representation at First Appearance.

All persons arrested for and/or charged with violating a state statute, or county or municipal ordinance are entitled to representation by legal counsel at first appearance.

If the accused has not retained private counsel to represent them, and if the accused is indigent and arrested for and/or charged with violating a state statute, the Office of the Public Defender shall be appointed to represent the accused at first appearance. The representation shall continue until the Clerk makes a determination on the accused's application for indigent status. Should the Clerk determine the accused is not indigent, or if the accused does not submit an application for criminal indigent status within seven (7) days after being brought before the Court for his or her first appearance hearing, the Office of the Public Defender shall be discharged from representation without further order of the Court.

³ Pre-Trial Services shall prepare an objective risk assessment on each defendant with a crime except if the criminal charge is a capital felony or a first degree felony punishable by life. Pre-Trial Services shall assess the risk of the defendant's failure to appear at future court hearings and risk of performance on community supervision. The risk assessment tool shall consider, *inter alia*, the defendant's criminal history, prior failures to appear, and community ties.

If the accused has not retained private counsel to represent them, and if the accused is indigent and arrested for and/or charged with violating a county or municipal ordinance, and 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 county or municipal ordinance violations, the arresting entity shall have an attorney or attorneys present 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 the hours of 9:00 a.m. and 10:00 a.m.

If the county or municipality has not entered into an agreement with the State Attorney pursuant to section 27.02, Florida Statutes to prosecute county or city municipal 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 the hours of 9:00 a.m. and 10:00 a.m.

The county and each municipality shall provide the Chief Judge, Clerk, Sheriff, and First Appearance 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 only a county or municipal ordinance no later than the first of each month.

(6) Required Pleadings/Papers.

(a) The following documents shall be provided to the First Appearance Judge at the first appearance hearing for each individual: (i) booking slip; (ii) probable cause affidavit or other document setting forth the reasons for the individual's arrest; (iii) Pretrial Services Report; and (iv) the individual's criminal history information⁴, if completed. Broward Pretrial Services shall also provide to the Court, Public Defender and State Attorney a risk assessment report objectively assessing risk factors for the accused.

(b) The Clerk or Broward Pretrial Services shall provide a copy of the booking slip, probable cause affidavit, risk assessment evaluation 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.

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.

(c) The Clerk or Sheriff shall prepare and provide to the First Appearance Judge, Administrative Judge of the County Court, State Attorney, Public Defender, Director, and Sheriff or Clerk 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.

(7) All individuals in the custody of the Sheriff being detained because of an arrest, warrant, *capias*, or order shall be brought before the First Appearance Judge for a hearing within twenty-four (24) hours of his or her arrest as required by law or rule of procedure, unless otherwise indicated in this Administrative Order.

(8) **Second Hearing before the First Appearance Judge.** If any individual is still being detained on a misdemeanor charge or municipal ordinance violation and has not been released from the Sheriff's detention facility within two (2) days after being granted bond or pretrial release at his or her first appearance hearing, or if any individual is detained on a non-violent second or third degree felony charge, which is not an offense listed in section 907.041(4), Florida Statutes, and has not been released from the Sheriff's detention facility within two (2) days after being granted bond or approved for release under the supervision of Pre-Trial Release program at his or her first appearance hearing, there shall be a second hearing before the First Appearance 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 First Appearance Judge, Administrative Judge of the County Court, 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 county or municipal ordinance violation.

(9) **In Custody Felony Violation of Probation.**

(a) All persons arrested on a felony warrant for violation of probation or community control shall be transported, upon arrest, to the Broward County Main Jail.

(b) The Broward Sheriff's Office shall ensure that all persons arrested Monday-Thursday and on Sunday on a felony warrant for violation of probation or community control and who are held with no bond or who are unable to post a monetary bond are taken directly to the division judge presiding over their case the next court business day following their arrest.

(c) Individuals arrested on a Friday, Saturday, or court holiday on a felony warrant for violation of probation or community control and who are held with no bond or who are unable to post a monetary bond shall be taken before the division judge presiding over their case the next court business day following their arrest.

(d) It shall be the responsibility of the Department of Corrections and the Clerk to ensure that all necessary paperwork, including pleadings, warrants, etc., relating to the allegations of violation of probation or community control is provided to the Court, Public Defender, and State Attorney contemporaneously with the Defendant's court appearance.

(e) The Clerk, Sheriff, or Department of Corrections shall prepare and provide to each division judge, the State Attorney and Public Defender, a daily (Monday-Friday) printed list of all cases to be heard by each division judge in accordance with this section.

(f) All persons arrested on a felony warrant for violation of probation or community control, the basis of which is a new law violation, shall be taken before the First Appearance Judge in accordance with this Administrative Order. A subsequent hearing for persons arrested for and/or charged with a new law violation and a violation of probation or community control pursuant to section 948.06, Florida Statutes, shall be held by the division judge presiding over their case two (2) days following their arrest, or the next court business day if the second day is a weekend or court holiday.

(g) In any case where the assigned division judge is unavailable, the Clerk or Sheriff shall notify the Administrative Judge of the Circuit Criminal Division in order for a hearing to be scheduled before an available judge. If the Administrative Judge of the Circuit Criminal Division is unavailable, the Clerk or Sheriff shall notify the Chief Judge.

(10) In Custody Misdemeanor Violation of Probation.

(a) All persons arrested on a misdemeanor warrant for violation of probation shall be transported, upon arrest, to the Broward County Main Jail.

(b) All persons arrested Monday-Thursday and on Sunday on a misdemeanor warrant for violation of probation for a case with a designation 10, and who are held with no bond or who are unable to post a monetary bond, shall be taken directly to the division judge presiding over their case the next court business day following

their arrest, unless the case is pending in Division ZD then they should be brought before the judge presiding in Division ZD on Tuesday, Wednesday, or Thursday.

(c) Individuals arrested on a Friday, Saturday, or court holiday on a misdemeanor warrant for violation of probation for a case with a designation of 10 and who are held with no bond or who are unable to post a monetary bond shall be taken directly to the division judge presiding over their case the next court business day following their arrest, unless the case is pending in Division ZD then they should be brought before the judge presiding in Division ZD on Tuesday, Wednesday, or Thursday.

(d) All persons arrested Monday-Thursday and on Sunday on a misdemeanor warrant for violation of probation for a case with a designation of 20, 30, or 40, and who are held with no bond or who are unable to post a monetary bond, shall be taken before the Chairperson of the County Criminal Division the next court business day following their arrest for appropriate action, including reassignment to another judicial officer if necessary, unless the case is pending in Division ZD then they should be brought before the judge presiding in Division ZD on Tuesday, Wednesday, or Thursday.

(e) Individuals arrested on a Friday, Saturday, or court holiday on a misdemeanor warrant for violation of probation for a case with a designation of 20, 30, or 40, and who are held with no bond or who are unable to post a monetary bond shall be taken before the Chairperson of the County Criminal Division the next court business day following their arrest for appropriate action, including reassignment to another judicial officer if necessary, unless the case is pending in Division ZD then they should be brought before the judge presiding in Division ZD on Tuesday, Wednesday, or Thursday.

(f) All persons arrested on a misdemeanor warrant for violation of probation, the basis of which is a new law violation, shall be taken before the First Appearance Judge in accordance with this Administrative Order.

(g) In any case where the assigned division judge is unavailable, the Clerk or Sheriff shall notify the Chairperson for the County Criminal Division in order for a hearing to be scheduled before an available judge. If the Chairperson for the County Criminal Division is unavailable, the Clerk or Sheriff shall notify the Chief Judge.

(11) **Misdemeanor Domestic Violence.** All persons arrested for and/or charged with misdemeanor domestic violence shall have first appearance proceedings before the judge assigned to Division MV/57, except as provided in Section (2)(b) of this Administrative Order.

(12) **Felony Domestic Violence.** All persons arrested for and/or charged with felony domestic violence shall have first appearance proceedings before the judge assigned to Division FV/GC/57, except as provided in Section (2)(b) of this Administrative Order.

(13) **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 First Appearance Judge with a copy to the State Attorney, Public Defender, and Clerk. All hearings required by law or rule of procedure shall be heard by the First Appearance Judge on Tuesdays and Thursdays at 1:00 p.m., excluding court holidays. The Broward Sheriff's Office shall be responsible for transporting any individuals for extradition hearings.

(14) **Felony Capias Arrests.** If an individual is detained on a felony capias, the Clerk shall set the case on the presiding judge's next court business day docket.

(15) **Misdemeanor Capias Arrests.** Unless an individual is held with no bond, any individual arrested on a misdemeanor capias shall appear before the First Appearance Judge who shall have authority to modify the bond or set pretrial release conditions. If an individual is held with no bond on a misdemeanor capias for a case with a designation of 20, 30, or 40, the judge shall direct the Clerk to set the case before the Chairperson of the County Criminal Division the next court business day following his or her arrest for appropriate action. If an individual is held with no bond on a misdemeanor capias for a case with a designation of 10, the judge shall direct the Clerk to set the case on the county criminal division judge's next court business day docket.

(16) **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 the 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 the 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.

(17) **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 the 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. This includes any such person arrested on a civil warrant or contempt order.

(18) **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.

(19) **Filing of Formal Charges.** If an individual remains in the custody of the Sheriff for thirty (30) days from the date of arrest without formal charges being filed, a hearing shall be held before the First Appearance on the 33rd day following the individual's arrest. It shall be the responsibility of the Broward Sheriff's Office, State Attorney and/or Public Defender to bring such cases to the attention of the Court. It shall be the responsibility of the Broward Sheriff's Office and/or State Attorney to advise the Court in such cases where the individual is unrepresented by legal counsel.

(20) **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.

(21) **Notification.** It shall be the responsibility of the Broward Sheriff's Office, Department of Detention to advise the Chief Judge of any person who is not facing a criminal charge or charges and who is confined in the Broward County Jail for more than thirty (30) days.

(22) This Administrative Order vacates and supersedes Administrative Order 2018-20-Crim. 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 this 1st day of August, 2018.

/s/ Jack Tuter
Jack Tuter, Chief Judge