20190018497 RECORDED IN PUBLIC RECORDS LEON COUNTY FL BK: 5298 PG: 1677,
03/28/2019 at 03:30 PM, GWEN MARSHALL, CLERK OF COURTS

IN THE SECOND JUDICIAL CIRCUIT OF FLORIDA

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER 2019-05

IN RE: UNIFORM BOND SCHEDULE AND PRETRIAL RELEASE PROCEDURES

WHEREAS, Rule 3.131 of the Florida Rules of Criminal Procedure, 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 903.047, 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 prior to first appearance; it is therefore

ORDERED that:

I. Release by Booking Officer or by Pretrial Release Officer.

A. Definitions.

"Arrestee" means a person arrested by law-enforcement unless and until a charging document is filed.

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"Booking Officer" means the employee of a Sheriff's Office who receives the defendant from the arresting officer for processing after arrest.

"Pretrial Release Officer" ("PRO") means an employee of the Leon County Supervised Pretrial Release Program to release eligible arrestees on Supervised Pretrial Release prior to first appearance before a judge. A PRO shall be on duty at the Leon County Detention Center every day, twenty-four hours per day unless excused by the chief judge. A PRO shall attend each first appearance hearing in Leon County.

The PRO is responsible to gather information, as reasonably practicable, necessary to determine whether an arrestee is eligible for release by the PRO without the delay of awaiting first appearance before a judge. The PRO is also responsible to provide information to the first appearance judge to assist in the first appearance judge's decisions regarding release and conditions. The PRO is required to make reasonable efforts to gather the specified information and shall inform the first appearance judge if exigencies of time or resources prevented gathering of specified information.

"On view arrest" means an arrest for a crime, violation of probation, or violation of conditions of release based on a law enforcement officer's observation of such conduct and without a warrant or summons issued by a judge.

"Assigned trial judge" or "presiding judge" means the judge of the division to which the arrestee's case is assigned after arrest for all proceedings after first appearance.

"First appearance judge" means the judge conducting the initial hearing under Rule 3.131(b), Fla.R.Crim.P. for arrestees who are not released by the Booking Officer or PRO.

"Release on recognizance" ("ROR") means that no conditions of release are imposed except mandatory conditions established by this administrative order or by law.

"Emergency" means circumstances presenting a significant and imminent risk of (1) personal injury to any person or the community, (2) absconding or failure of the arrestee to appear; or (3) compromise of the integrity of the judicial process such as by witness intimidation or threats, or failure or refusal to obey court orders.

B. Information for Pretrial Release and Detention.

1. Booking Officer Gathers Identity and Criminal Justice Information.

   a. The Booking Officer is responsible to gather identity and criminal justice information regarding each arrestee, to classify the arrestee and determine if the arrestee is eligible for release without referral for supervised pretrial release or first appearance before a judge.

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b. The Booking Officer shall provide the information gathered to the Clerk of Court for filing in the arrestee's court file and to the PRO if the arrestee is not released by the Booking Officer.

c. The Booking Officer shall gather information, if any and as reasonably available, as to the arrestee's:

(1) identity including legal name, date of birth, social security number, SPN number, mobile phone number for receipt of text messages, email address and residence address;
(2) prior criminal record including national, state, and local arrests, charges, convictions, imprisonment in the Department of Corrections and most recent release date;
(3) pending prosecutions and warrants;
(4) probation, community control or similar supervision status.
(5) pretrial release status at the time of the current alleged offense or arrest;
(6) status as a fugitive from another state, status as subject to a warrant from another county or of the parole commission or subject of a bondsman recommit;
(7) status as subject to an arrest order for civil contempt of court including for non-payment of child support or cash purge;
(8) status as subject to the Lunsford Act -- if the arrest is for violation of probation or community control, whether a "danger to the public" hearing is required by the Lunsford Act, section 984.06(4), Florida Statutes; and
(9) status as required to register as a sexual offender of sexual predator.

2. PRO Gathers Information Regarding Finances, Employment and Ties to the Community.

a. The PRO is responsible to gather specified information for each arrestee, to the extent reasonably available, except arrestees released by the booking officer.

b. The PRO is responsible, as time and resources reasonably permit, to gather information regarding the arrestee's finances, employment and ties to the community to determine if the arrestee is eligible for pretrial release and appropriate conditions of release.

c. The PRO shall interview each arrestee, if reasonably practicable, to gather information to determine eligibility for release. If the arrestee is not released the information will be used to assist the first appearance judge in determining release and conditions.

d. The Booking Officer or other personnel at the detention facility shall make available to each arrestee a written document:

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(1) disclosing that the purpose of the information sought is to determine the arrestee's eligibility for release, and establish conditions of release including setting the amount of bond;
(2) describing the arrestee's right to counsel;
(3) describing the arrestee's right to appear before a judge for first appearance, talk to the first appearance judge about release, and be informed of the reasons for release decisions; and
(4) file a motion and have a hearing to address release, modification of conditions and to reduce or eliminate bond before the presiding trial judge.

e. To the extent that time and resources permit, the PRO is responsible to inform each arrestee orally that the purpose of the information sought is to determine the arrestee's eligibility for release and establish conditions of release including setting the amount of bail.

f. The PRO shall record information gathered from each arrestee on a pretrial release arrestee information form. The PRO shall make written notation if time and resources did not permit a particular inquiry, or if the arrestee refused to provide requested information.

g. The PRO is responsible to gather information, if any, as to the arrestee's ties to the community and financial means including:

(1) Residence address, stability and length of residence, including:

(a) home ownership;
(b) lease or rental agreement;
(c) living arrangement with family member or friend;
(c) transitional housing arrangement such as Hope House; and/or
(e) homeless shelter.

(2) Ties to the community, including:

(a) employment;
(b) enrollment in college, university or trade school;
(c) membership in local organizations;
(d) responsible adults willing to provide supervision; and/or
(e) trade or occupational licenses.

(3) Financial means including:

(a) salary or other income;
(b) ownership of real property;
(c) ownership of motor vehicles;
(d) ownership of securities;
(e) ownership of savings or checking accounts;

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(f) ownership of cash; and/or
(g) other adults willing to post bail.

3. PRO Gathers Information Regarding Protective Injunctions. The PRO is responsible to gather civil court information relevant to the arrestee's dangerousness to persons or the community and threat to the integrity of the judicial process. The PRO is responsible to gather information as to the arrestee's status as a subject of active protective injunctions and history of being a party to protective injunction cases.

4. PRO Provides Information to Court for First Appearance.

   a. The PRO shall provide criminal justice information gathered by the Booking Officer and the information gathered by the PRO to the first appearance judge together with the pertinent arrest documents, including the affidavit of probable cause and victim statement, if any.

   b. The PRO shall inform the first appearance judge if the arrestee refused to provide information, or the PRO was unable to gather information.

   c. The PRO shall inform the first appearance judge if the arrestee is eligible for bond schedule release by the Booking Officer but remains in custody for first appearance because the arrestee failed to post the applicable bond.

C. Classification and Bond Schedule Release by the Booking Officer.

1. The Booking Officer is responsible to classify each arrestee as eligible for:

   a. immediate release on recognizance;

   b. immediate release under the Bond Schedule; or

   c. requiring further review.

2. The Booking Officer is hereby authorized to release arrestees eligible for release under the Bond Schedule without further referral to the PRO and before first appearance.

3. All arrestees classified "requiring further review" shall be referred to the PRO for consideration of eligibility for the Supervised Pretrial Release Program ("SPRP") before first appearance.

D. Other Counties. The Booking Officer is responsible to gather the above specified information in counties with no supervised pretrial release program authorized by administrative order.

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E. First Appearance Required (FAR): Ineligible for Release Except by Judge.

1. FAR: Offenses. The following offenses require first appearance before a judge unless otherwise stated in a warrant issued by a judge. For purposes of eligibility for release by the Booking Officer or PRO, any attempt or conspiracy to commit a listed offense shall also be ineligible for release without a first appearance before a judge.

   a. Capital, Life and PBL Felonies: All offenses punishable by life imprisonment including all capital felonies; life felonies and first degree felonies punishable by life.

   b. Dangerous Crimes: All "dangerous crimes" as defined by the Legislature in section 907.041, Florida Statutes. The current list is as follows:

      (1) Arson;
      (2) Aggravated assault;
      (3) Aggravated battery;
      (4) Illegal use of explosives;
      (5) Child abuse or aggravated child abuse;
      (6) Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult;
      (7) Aircraft piracy;
      (8) Kidnapping;
      (9) Homicide;
      (10) Manslaughter;
      (11) Sexual battery;
      (12) Robbery;
      (13) Carjacking;
      (14) Lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years;
      (15) 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;
      (16) Burglary of a dwelling;
      (17) Stalking and aggravated stalking;
      (18) Act of domestic violence as defined in section 741.28, Florida Statutes;
      (19) Home invasion robbery;
      (20) Act of terrorism as defined in section 775.30, Florida Statutes;
      (21) Manufacturing any substances in violation of Chapter 893;
      (22); Human trafficking, and
      (23) Attempting or conspiring to commit any such crime.

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c. Other Offenses Requiring First Appearance:

(1) All driving under the influence charges except first offense with no death or personal injury.
(2) Burglary of an occupied structure under section 810.02(3)(c), Florida Statutes.
(3) Domestic battery under section 784.043, Florida Statutes.
(4) Driving under the influence manslaughter and vehicular homicide.
(5) Escape from adult or juvenile facility under section 944.40 or 985.721, Florida Statutes.
(6) Failure to register as a sexual offender or predator under section 943.035, Florida Statutes.
(7) Giving false name to law enforcement officer under section 837.05, Florida Statutes, if the arrestee's true identity is unknown or seriously questioned.
(8) Possession of firearm by convicted felon under section 790.23, Florida Statutes.
(9) Sexual performance by a child under section 827.071, Florida Statutes, and selling or buying of minors under section 847.0145, Florida Statutes.
(10) Tampering with a witness under section 914.22, or retaliating against witness under section 914.23, Florida Statutes.
(11) Trafficking in any controlled substance under section 893.135, Florida Statutes.
(12) Violation of domestic violence pretrial release under section 741.29(6), Florida Statutes.
(13) Violation of protective injunction under sections 741.31 and 784.047, Florida Statutes.

2. FAR: Specified Circumstances Even if Warrant Sets Bond. In the following specified circumstances, the arrestee shall be held for first appearance ***even if*** the warrant set a bond amount, unless the judge states in the warrant that the judge is aware of such circumstances:

a. arrestee is on felony probation or community control supervision or pretrial release for any pending felony or violent misdemeanor and the current arrest is for any felony or misdemeanor involving actual or threatened violence;

b. arrestee is on felony or misdemeanor probation or community control and meets Lunsford Act criteria under section 948.06(4), Florida Statutes, unless a judge issuing a warrant makes a specific written finding that the arrestee is not a danger to the public;

c. arrestee is a danger to self or others because of mental illness; or

d. PRO makes a request to the first appearance judge that the defendant be held for first appearance stating a specific reason regarding likelihood of appearance or safety of the community for denying bond under the bond schedule.

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Under such circumstances, the first appearance judge may order the arrestee held for appearance before the presiding trial judge even if the warrant would otherwise permit release.

3. FAR: Unless Warrant Sets Conditions of Release. In the following specified circumstances, the arrestee shall be held for first appearance ***unless*** a warrant issued by a judge sets conditions of release:

   a. arrested for felony and alleged to have actually possessed a firearm;

   b. arrested for felony and released from prison within 3 years of offense date;

   d. arrested on view for violation of probation; or

   d. arresting officer requests first appearance in writing stating law enforcement reason.

   If a warrant issued by a judge states "FAR" or "First Appearance Required" and includes specific release conditions, the arrestee shall be held for first appearance.

4. FAR: LEO Exception on Written Request. A law enforcement officer making an on view arrest may request in writing that the defendant be released. The PRO or Booking Officer may release such arrestee if:

   a. the arrestee has no other pending charges; and

   b. the arrestee has no convictions for any misdemeanors involving violence; and

   c. the arrestee has never previously been adjudicated guilty of any felony.

F. Non-monetary Conditions of Release.

1. Mandatory Conditions for All Arrestees. All persons arrested and released (whether ROR, under the bond schedule, under the Supervised Pretrial Release Program, under the terms of a warrant or after first appearance) must comply with the following conditions unless excused by the first appearance or presiding judge:

   a. The arrestee must appear in person and on time for the initial court date and all subsequent court dates unless excused by the court. The arrestee must sign written acknowledgment of the first court date and promise to appear on pain of arrest and detention for unexcused failure to appear.

   b. The arrestee must refrain from any future criminal activity.

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c. The arrestee must have no contact with the property or premises where the crime is alleged to have occurred.

d. The arrestee must have no contact (as defined by section 903.047, Florida Statutes) of any type with the victim of the alleged crime, if any. As required by section 903.047(2), Florida Statutes, the no contact provision may not be modified even by a judge unless the victim receives notice and a fair opportunity to be heard.

e. The arrestee must notify the clerk of court in writing within 10 days of any change of permanent mailing address for the receipt of court notices to the arrestee.

f. The arrestee must inform the clerk of court in writing within 10 days of any change to the arrestee's cell phone number for the receipt of text message court notifications.

g. The arrestee must inform the clerk of court in writing within 10 days of any change to the arrestee's email address for the receipt of court notifications.

The Booking Officer shall inform each arrestee released prior to a first appearance hearing of these mandatory conditions. All arrestees must sign written acknowledgment and acceptance of these mandatory conditions to be eligible for release by the Booking Officer or PRO. If the arrestee fails or refuses to sign such written acknowledgment the arrestee shall be held for first appearance before a judge.

2. Additional Mandatory Conditions of Release for Specified Charges. All persons arrested for offenses specified below must comply with the following additional conditions of release.

a. Alcohol Offenses. The arrestee shall not possess or consume any alcoholic beverage if charged with an offense in which the use of alcohol is an element, including but not limited to, all forms of driving under the influence, disorderly intoxication and underage drinking.

b. Drug Offenses. Random urinalysis shall be required for any arrestee charged with a felony violation of Chapter 893 of the Florida Statutes and who has a prior misdemeanor or felony conviction for a drug offense under Chapter 893. 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 arrestee shall be responsible for all fees associated with testing and supervision, absent court order to the contrary.

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3. Additional Conditions May be Imposed by Judge.

   a. The first appearance judge may impose additional, lawful conditions as necessary to ensure the appearance of the arrestee at subsequent proceedings, to protect the victim and community, and to ensure the integrity of the judicial process.

   b. By notice and hearing, the assigned trial judge may impose additional conditions of release to protect the community from risk of physical harm, assure the presence of the accused at trial, or to assure the integrity of the judicial process.

II. Leon County SPRP and Bond Schedule.

A. The Uniform Bond Schedule is intended to permit expedited release of eligible arrestees throughout the Second Judicial Circuit.

B. The Leon County SPRP is intended to provide an alternative to monetary conditions of release for arrestees who are likely to appear in court, unlikely to present a danger to the community and likely to respect the integrity of the judicial process. The Leon County SPRP applies to arrestees in Leon County for Leon County cases only.

C. The intent of the Leon County SPRP is to comply with the legislative mandate of section 907.041, Florida Statutes, 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 ...".

D. Fees and costs associated with release may be imposed. However, no person otherwise eligible for release shall be denied release because of failure to pay such fees or costs in advance of release. Fees and costs may be permitted to accrue during the period of release and may be finally assessed if the arrestee is sentenced.

E. The information gathered by the Booking Officer and the PRO, including the basis for a conclusion that the arrestee was ineligible for release by the Booking Officer and the PRO, shall be provided to the first appearance judge.

F. The first appearance judge is not bound by the decisions of the Booking Officer or the PRO. The first appearance judge retains all lawful authority to release each arrestee and for the conditions of such release, to conduct an individualized hearing, and to determine conditions of release for each arrestee who is not released by the Booking Officer or PRO.

G. Release prior to first appearance under the supervision of the SPRP is governed by the procedures set forth below.

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1. Risk Assessment Instrument.

   a. The Ohio Risk Assessment System ("ORAS") is hereby specified as the risk assessment instrument adopted for use in Leon County for all eligible arrestees.

   b. The Leon County PRO is responsible to complete an ORAS score for each arrestee who is not released by the Booking Officer, if time and resources permits. The ORAS score for each arrestee shall be provided by the PRO to the first appearance judge, unless the PRO informs the first appearance judge that time and resources did not permit the ORAS to be completed.

2. PRO Determines Eligibility for SPRP Before First Appearance.

   a. The PRO is authorized to determine whether each arrestee who is not released under the bond schedule is eligible for pretrial release prior to first appearance before the first appearance judge.

   b. The PRO is hereby authorized to release eligible arrestees, defined below, with such conditions as required or authorized but with no monetary security condition.

3. Arrestees Eligible for Supervised Pretrial Release by PRO. An arrestee shall be eligible for pretrial release by the PRO without monetary security if the PRO determines that the arrestee is not otherwise ineligible and satisfies each of the following conditions:

   a. The current arrest is for an offense not deemed a dangerous crime or otherwise FAR as designated herein and the ORAS instrument indicates low risk.

   b. The arrestee makes a written request for pretrial release, acknowledging and accepting mandatory and discretionary conditions; and

   c. The arrestee has a verified address in the Second Judicial Circuit.

4. An arrestee is ineligible for pretrial release by the PRO and must be held for first appearance before a judge if any of the following apply:

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

   b. The arrestee was taken into custody (1) on a warrant with specific monetary security, or (2) on a warrant specifying that the arrestee be held without bond, or (3) on a warrant specifying that the arrestee be held for first appearance.

   c. The arrestee is charged with any offense designated as first appearance required by this administrative order.

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5. PRO Authority to Impose Conditions of Supervised Pretrial Release. The PRO is hereby granted authority to require the arrestee to meet additional conditions of release under the SPRP appropriate to the arrestee and charges, including:

   a. Maintain specified regular contact with PRO.

   b. Abide by curfew.

   c. Surrender passport.

   d. Maintain a specified residence.

   e. Abide by limitations on travel.

   f. Submit to screening for mental illness.

   g. Submit to screening for substance abuse.

   h. Submit to random testing for substance abuse.

   i. Maintain employment or attend school.

   j. Conduct an employment search and provide proof.

   k. Immediately notify PRO of changes to contact information.

   l. The PRO may direct an arrestee to be held for first appearance to request that the first appearance judge consider imposition of another specific condition that the PRO believes may be reasonably necessary to assure the arrestee's appearance for subsequent court proceedings, community safety, and the integrity of the judicial process.

6. Violation of Conditions of Supervised Pretrial Release.

   a. This administrative order does not change the authority of a law enforcement officer to make a warrantless arrest for violating a condition of release.

   b. If an arrestee released on Supervised Pretrial Release violates any established condition of release, the PRO shall prepare an affidavit of violation describing the violation and a proposed order to show cause why pretrial release should not be revoked.

   c. The affidavit of violation and proposed order shall be presented to the assigned trial judge except (1) for emergencies during non-business hours or (2) if the assigned trial judge is unavailable. In emergencies or if the assigned trial judge is unavailable, the affidavit and proposed order shall be presented to the

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administrative judge of the division to which the case is assigned, the Chief Judge or if neither of them is available, any available judge.

d. A person arrested for violating pretrial release must be brought before the first appearance judge within 24 hours of arrest and promptly brought before the assigned trial judge thereafter if not released by the assigned trial judge.

7. Bond Schedule for Release by Booking Officer.

a. The purpose of this bond schedule is to minimize the time of detention after arrest so that eligible arrestees may be released without the additional delay of awaiting first appearance before a judge.

b. Every booking officer in every county in the Second Circuit is hereby authorized to release eligible arrestees before first appearance upon posting of the monetary security amounts established in this administrative order if such arrestee also signs a written acknowledgment of mandatory conditions and promise to appear for all subsequent court dates.

c. In Leon County, if a bond schedule eligible arrestee is unable or unwilling to post the scheduled security, such arrestee will be considered for Supervised Pretrial Release by the PRO.

d. An arrestee not released by the Booking Officer under this bond schedule or by the PRO must be brought before a judge for the next day's first appearance.

8. Bond Schedule: Authority of Booking Officer to Release on Specified Security. The Booking Officer is hereby authorized to release any eligible arrestee as herein defined who posts bail in the stated amount for the applicable offense and who signs a promise to comply with all mandatory conditions of release and appear at all subsequent court hearings.

a. Bond set at $25,000 on the following charges:
   - All first degree felonies

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

c. Bond 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.)
   - Dealing In Stolen Property (Section 812.019)
   - Insurance Fraud (Section 817.234(11)(a))

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- Driving While License Suspended or Revoked with Injury (Section 322.34(6)(b))
- All third degree felony burglary charges
- Criminal Use of Personal Identification (Section 817.568)

d. Bond 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 Effect (Section 901.36(2))
   - Unemployment Compensation Fraud (Section 443.071(1))

e. Bond 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)

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

g. Bond set at $250 on the following charges, if the defendant does not have a verifiable address in the Second Circuit, and release on recognizance (ROR), if the defendant does have a verifiable address in the Second Circuit:
   - All other second degree misdemeanors
   - All county and city ordinance violations

II. TERMINATION OF OTHER ORDERS AND EFFECTIVE DATE. Administrative Orders 2003-8, 2003-10, 2006-02, 2018-06, and subsequent amendments to those orders are hereby terminated effective April 15, 2015. This order becomes effective April 15, 2015.

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

JONATHAN SJOSTROM
Chief Judge

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