

**IN THE THIRTEENTH JUDICIAL CIRCUIT
HILLSBOROUGH COUNTY, FLORIDA**

**ADMINISTRATIVE ORDER S-2012-035
(Supersedes Administrative Order S-2011-040)**

CRIMINAL JUSTICE DIVISION PROCEDURES

Because of upcoming reductions in the Clerk of the Circuit Court's budget, the Clerk can no longer perform certain duties that are not specifically mandated by statute. Additionally, the Second District Court of Appeal has recently restricted chief judges' authority when assigning a commissioner of the appellate court to conduct evidentiary hearings. In light of these changes, it is necessary for the proper and efficient administration of justice to update the uniform procedures in the Criminal Justice Division.

By the power vested in the chief judge under article V, section 2(d), Florida Constitution; section 43.26, Florida Statutes; and Florida Rule of Judicial Administration 2.215(b)(2), it is therefore **ORDERED**:

1. DEFINITIONS

For purposes of this administrative order, the following terms have the following meanings:

- A. **"Booking"** – means the administrative processing of an individual by the Hillsborough County Sheriff's Office subsequent to arrest.
- B. **"Child abuse offense"** - means a violation of section 39.205(2) (failure to report child abuse); 39.205(6) (false report of child abuse); 827.03 (abuse, aggravated abuse, and neglect of a child); 827.04(3) (child abuse by impregnation) or 847.0133 (protection of minors; prohibition of certain acts in connection with obscenity), Florida Statutes.
- C. **"Co-defendant case"** - means two or more defendants charged, in the same case, with at least one felony offense.
- D. **"Drug court division"** - means any of the following Criminal Justice Divisions: Division "W" (Pre-Trial Drug Court Intervention) or Division "Y" (Drug Court Model).
- E. **"Drug court model"** - means a case management system for drug offenses in which court supervised drug treatment is used rather than litigation (*i.e.*, no trials or pre-trial motions). The treatment may include, but is not limited to, community sanctions, varying levels of drug treatment and incarceration pursuant to the Criminal Punishment Code. The drug court model applies a protocol which includes the use of in-court substance abuse evaluators to aid the presiding judge in fashioning appropriate substance abuse treatment, conditions of community sanctions, and case reviews every four to six weeks as needed.
- F. **"Drug offense"** - means a felony violation of chapter 893, Florida Statutes.
- G. **"Felony"** - has the same meaning as provided in section 775.08(1), Florida Statutes.

H. **“Pending case”** – means a case in which any matter is pending before the court after an indictment or information is filed or any case in which a probation or community control sentence is still in effect. A probation or community control sentence is not considered “still in effect” if such sentence has been terminated early.

I. **“Proposed division”** – means an assignment of a standard division based on an equitable random distribution, made by the Clerk of the Circuit Court (clerk), at the request of the State Attorney’s Office upon the filing of a criminal report affidavit subsequent to arrest. This term also means an assignment of a standard division based on an equitable random distribution, made by the clerk, at the request of the State Attorney’s Office upon the referral of a criminal investigation to the State Attorney’s Office prior to an arrest.

J. **“Sex offense”** - means a violation of section 491.0112 (sexual misconduct by psychotherapist); 794.011 (sexual battery); 794.05 (unlawful sexual activity with certain minors); 796.03 (procuring person under age 18 for prostitution); 796.035 (selling or buying of minors into sex trafficking or prostitution); 796.04 (forcing, compelling, or coercing another to become a prostitute); 796.045 (sex trafficking); 800.04 (lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age); 825.1025 (lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult); 827.071 (sexual performance by a child); 847.0135(2), (3), (4), or (5) (computer pornography); 847.0137 (transmission of pornography by electronic device); 847.0138 (transmission of material harmful to a minor by electronic device); or 951.221 (sexual misconduct by detention facility employee), Florida Statutes.

K. **“Specialized division”** - means any of the following Criminal Justice Divisions: Division “H” (Sex and Child Abuse Offenses), Division “J” (Post-Conviction Relief Matters), Division “K” (Violation of Probation and Community Control) or Division “O” (First Appearance / Emergency).

L. **“Standard division”** - means any of the following Criminal Justice Divisions: Division “A,” Division “B,” Division “C,” Division “D,” Division “E,” Division “F,” Division “G,” or Division “I.”

M. **“Trial division”** - means any of the following Criminal Justice Divisions: Trial Division 1, Trial Division 2, or Trial Division 3.

N. **“VOP”** - means violation of probation, violation of drug offender probation, violation of community control, violation of community control II, and violation of juvenile commitment or violation of juvenile community control imposed as a consequence of a juvenile having been sentenced as an adult.

2. DIVISION “H” – SEX & CHILD ABUSE OFFENSES

In accordance with the assignment procedures provided in section 8 of this administrative order, all sex offenses and child abuse offenses will be assigned to Criminal Justice Division “H.” If a defendant is on probation or community control in another criminal justice division and is subsequently charged with a sex offense or child abuse offense, the new charge and any subsequent violation of probation or violation of community control will be assigned to Division “H.” If the violation of probation or violation of community control is already pending in another criminal justice division, it will be transferred to Division “H.”

3. DIVISION “J” – POSTCONVICTION RELIEF MATTERS

All motions filed seeking postconviction relief in accordance with Florida Rule of Criminal Procedure 3.850 in cases in which a trial was not conducted and all related motions (*e.g.* motions to appoint counsel and motions for rehearing), and all motions filed seeking postconviction relief by defendants who have been sentenced to death in accordance with Florida Rules of Criminal Procedure 3.851 and 3.852 and all related motions (*e.g.* motions for competency evaluations), will be scheduled and disposed of in Criminal Justice Division “J.”

All motions filed seeking postconviction relief in accordance with Florida Rule of Criminal Procedure 3.850 in cases in which a trial was conducted and all related motions (*e.g.* motions to appoint counsel and motions for rehearing) and all motions filed seeking postconviction DNA testing in accordance with Florida Rule of Criminal Procedure 3.853 will be filed and disposed of in the standard division or Division “H” in which the case was last pending.

All motions filed seeking to correct, modify or reduce a sentence in accordance with Florida Rules of Criminal Procedure 3.800(a), 3.800(b), 3.800(c), and all related motions (*e.g.* motions to set hearings and motions to appoint counsel) will be filed and disposed of in the division in which the case was last pending.

Any other matter that reopens or addresses a closed case will be assigned to the division in which the case was last pending.

4. DIVISION “K” – VIOLATION OF PROBATION

All VOP matters arising in any standard division as a result of any alleged violation not involving a new felony charge will be scheduled and disposed of in Criminal Justice Division “K.” All VOP matters arising in any standard division as a result of any alleged violation involving a new misdemeanor charge will be scheduled and disposed of in Division “K.” Any new misdemeanor charge resulting in the alleged VOP will be scheduled and disposed of in Division “K.” In instances in which a defendant is on felony probation and misdemeanor probation when a new misdemeanor charge is allegedly committed by the defendant, any VOP arising in a county criminal division will be scheduled and disposed of in Division “K.” The judge assigned to Division “K” is hereby appointed as an acting county court judge for the purpose of presiding over such misdemeanor charges. For standard division cases, all proposed warrants for any technical VOP and for any alleged violation involving a new misdemeanor charge should be presented to the judge assigned to Division “K” for review and action.

All VOP matters arising in Criminal Justice Divisions “H” or “Y” as a result of any alleged violation will be filed and disposed of in the respective division and handled according to the administrative procedures for the respective division. Any VOP matter arising in a standard division as a result of any alleged violation involving a new felony charge will be filed and disposed of in the standard division in which the case was last pending. Any VOP matter arising in a standard division as a result of any alleged violation involving a new felony charge and an alleged technical violation will be filed and disposed of in the standard division in which the case was last pending.

5. DIVISION “W” - PRE-TRIAL DRUG INTERVENTION

Drug Court Division “W” will continue to be the pre-trial intervention program division

available to defendants who have been charged with a third degree felony drug offense but who have not been previously adjudicated guilty of a felony. Defendants will be required to enter into an agreement for drug treatment, but will not be required to enter a plea of guilty or *nolo contendere* to the charges that caused them to be assigned to drug court. Successful completion of the drug treatment program will result in dismissal of the charge(s) against the defendant. See § 948.08, Fla. Stat. For more information on Division “W,” see Administrative Order S-2010-013 or successor administrative orders.

6. DIVISION “Y” - DRUG COURT MODEL

Drug Court Division “Y” will continue to be the drug court division to handle eligible drug offenses. These drug offenses will be strictly managed by the presiding judge according to the traditional drug court model. Division “Y” will handle all eligible cases (as provided in the administrative order on drug court, Administrative Order S-2010-013 or successor administrative orders) through final disposition, including VOPs.

7. ADMINISTRATIVE JUDGES

An administrative judge will be designated to assist with the administrative supervision of the Criminal Justice Division. Associate administrative judges will be designated to assist with the administrative supervision of the standard divisions, the drug court divisions and the specialized divisions.

8. ALLOCATION OF CASELOAD

A. Division “O”

Upon the filing of a criminal report affidavit and booking of a defendant, the clerk will designate a sequential case number and assign the case to Division “O.” All such matters will remain assigned to Division “O” until a charging decision has been made by the state attorney or grand jury. If an information or indictment is filed, the clerk will then transfer the case to a criminal justice division as provided in this administrative order.

Upon the filing of an indictment or information prior to the arrest of a defendant, the clerk will designate a sequential case number and assign the case to Division “O.” The clerk will transfer the case to a criminal justice division after the defendant has been arrested and booked on that case.

B. Criminal Justice Division Assignment

Prior to the filing of any indictment or information, the state attorney will notify the clerk in writing if any named defendant has any pending case, and if so, the division to which the pending case is assigned. In transferring a case from Division “O” to a criminal justice division, the clerk will implement and utilize a caseload allocation system which incorporates the following components:

i. First degree murder

All newly filed cases charging first degree murder will be assigned to a standard division based on an equitable random distribution, except that newly filed cases charging both first degree murder and a sex offense or child abuse offense will be assigned to Division “H.” All pending cases involving any defendant charged in the indictment will be transferred to the division to which the first degree murder case is assigned.

ii. **RICO**

All newly filed cases charging RICO will be assigned to a standard division based on an equitable random distribution. All pending cases involving any defendant charged in the indictment or information will be transferred to the division to which the RICO case is assigned.

iii. **Third degree felony drug offense**

All newly filed eligible third degree felony drug offenses (as provided in the administrative order on drug court, Administrative Order S-2010-013), will be assigned to Division "Y."

iv. **Sex Offenses & Child Abuse Offenses**

All newly filed sex offenses and child abuse offenses will be assigned to Division "H." This will include those cases charging both a homicide and a sex offense or child abuse offense.

v. **All Other Cases**

a. **Single defendant, no pending case(s)**

If the defendant has no co-defendants and no pending cases, the newly filed case will be filed in the division which was identified as the proposed division.

b. **Single defendant, pending case(s)**

If the defendant has no co-defendants, but does have a pending case or cases, the newly filed case will be filed in the division which has the earliest filed pending case. All of the defendant's pending cases will be transferred to the assigned division if necessary.

c. **Co-defendants, no pending case(s)**

If a newly filed case involves co-defendants, none of whom has a pending case, the newly filed case will be filed in the division which was identified as the proposed division. In the event of multiple proposed divisions, the newly filed case will be filed in that division which was the earliest assigned proposed division.

d. **Co-defendants, pending case(s)**

If a newly filed case involves co-defendants, any one of whom has a pending case, the newly filed case will be filed in the division which has the earliest filed pending case. All co-defendants' pending cases will be transferred to the assigned division if necessary. In the event co-defendants have pending cases in different divisions, all pending cases will be transferred to the division which has the earliest filed pending case.

C. Appeals

Upon the filing of a notice of appeal from a county court criminal division, the clerk will designate a sequential case number and assign the appeal to a standard division in the Criminal Justice Division based on an equitable random distribution.

D. Habeas Corpus Petitions

All habeas corpus petitions will be filed in the Criminal Justice Division except those involving custody of minors who have not been charged as adults, which will be filed in the Juvenile Division, and except those filed under the provisions of "The Baker Act," which will be filed in the Probate, Guardianship and Trust Division.

E. Second District Court of Appeal Commissioner Petitions

All belated appeal petitions, and any other matter referred to the chief judge by the Second District Court of Appeal for appointment of a commissioner, will be assigned to the judge presiding in Division “J.” If the judge presiding in Division “J” is not eligible to be a commissioner in a particular case because of the appellate court’s criteria, the administrative judge of the Criminal Justice Division will be assigned as the commissioner of the Second District Court of Appeal.

9. REASSIGNMENT UPON DISQUALIFICATION

If any judge other than the judge presiding in Criminal Justice Division “J” or “K” enters an order of disqualification, the clerk will reassign the case to one of the standard divisions based on an equitable random distribution. If the judge presiding in Criminal Justice Division “J” or “K” enters an order of disqualification, the clerk will reassign the case to the criminal justice division in which the case would have been pending if not for the establishment of Criminal Justice Division “J” or “K” respectively.

10. IDENTIFICATION OF COURT REPORTERS

The clerk must ensure that the names of court reporters and the names of court reporting entities, if applicable, are captured in the progress docket for all court proceedings.

11. BOND REDUCTION AND RELEASE ON RECOGNIZANCE

In all instances where defense counsel seeks either the reduction of bond or release on recognizance, defense counsel will contact the assistant state attorney assigned to the case or that attorney’s immediate supervisor. If counsel are able to stipulate to the conditions of a defendant’s release, such stipulation will be reduced to writing and delivered to the office of the presiding judge of Division “O” for consideration and approval. If the presiding judge of Division “O” is not available, the stipulation will be presented to the administrative judge of the Criminal Justice Division or the administrative judge’s designee for consideration and approval.

When counsel are unable to stipulate to the conditions of a defendant’s release, defense counsel may schedule a hearing with the presiding judge of Division “O” and file an application for modification of bail with notice of hearing in accordance with Florida Rule of Criminal Procedure 3.131(d)(2).

In cases involving an alleged VOP, applications for modification of bail will be submitted to the judge assigned to the division in which the alleged violation is pending or scheduled. Applications for modification of bail in such cases will not be heard at first appearance or in Division “O” without the specific concurrence of the judge assigned the violation, or in that judge’s absence, the administrative judge of the Criminal Justice Division, an associate administrative judge or the chief judge. If counsel schedules a hearing for the reduction of bond or release on recognizance, counsel will notify the defendant’s probation officer of the scheduled hearing so that probation information can be made available for the hearing.

12. ARRAIGNMENTS

The clerk will ensure that any notices of appearance and any written pleas of not guilty are in the court file by the date the case is on the docket for arraignment. The clerk will provide written notice of arraignment to defendants who are not incarcerated as well as all surety and counsel of record. The clerk will provide written notice of the trial date or disposition date as well as any scheduled pre-trial conference date to all defendants, defense counsel and surety.

Each criminal justice division will handle arraignments involving incarcerated defendants on a timely basis. Such arraignment hearings must be scheduled by the clerk and set to be heard on the respective judge's docket within seven (7) days (excluding weekends and holidays) after the filing of the information or indictment. In those instances in which an indictment or information has been filed prior to the arrest of a defendant, arraignment hearings must be scheduled by the clerk and set to be heard on the respective judge's docket within seven (7) days (excluding weekends and holidays) after the arrest of the defendant.

The clerk will provide a monthly report to the chief judge indicating, by criminal justice division, any case involving an incarcerated defendant where the clerk is unable to schedule such an arraignment hearing within the prescribed time. The report will include the name of the defendant, the case number, and the reason for non-compliance. If all incarcerated defendants in a criminal justice division are arraigned within the 7-day time period, the report should include a statement to this effect.

13. SCORE SHEET, PLEA OFFER, AND POLICE REPORT

Whenever possible, the state attorney's office will prepare a criminal punishment code score sheet and furnish a copy of it together with a plea offer to defense counsel at or prior to arraignment. Likewise, the state attorney's office should provide a copy of any available police reports to defense counsel at arraignment.

14. REVOCATION OF PROBATION OR COMMUNITY CONTROL INVOLVING INCARCERATED DEFENDANTS

Each criminal justice division will handle first time hearings on revocations of probation or community control involving incarcerated defendants on a timely basis. Such revocation hearings must be scheduled by the clerk and set to be heard on the respective judge's docket no later than seven (7) working days (excluding weekends and holidays) after the arrest of the defendant. The clerk will provide a monthly report to the chief judge indicating, by criminal justice division, any case involving an incarcerated defendant where the clerk is unable to schedule such a revocation hearing within the prescribed time. The report will include the name of the defendant, the case number, and the reason for non-compliance. If all incarcerated defendants in a criminal justice division are able to have their revocation hearings scheduled within the 7-day time period, the report should include a statement to this effect.

15. PLEA AGREEMENTS

If the state attorney and the defendant reach a plea agreement, the case will be placed on the assigned judge's calendar as quickly as possible for a change of plea.

16. MOTIONS

All motions will be heard prior to pre-trial conference unless such opportunity did not exist or the defendant was not aware of the grounds for the motion prior to pre-trial. If there is no pre-trial conference, then motions will be heard prior to the date of the trial. The court in its discretion, however, may entertain any motion at any time. All legal authority relied upon in support of the motion should be provided to the court and opposing party at least three (3) days prior to the motion hearing.

Prior to filing any motion and scheduling a hearing with the assigned judge, counsel should consult with opposing counsel as to the date and the time required for such hearing. Counsel will contact the judicial assistant of the assigned judge and obtain a hearing time. Except for demands for speedy trial and motions for discharge, all motions will have a notice of hearing attached containing the scheduled hearing time. If a motion does not have an attached notice of hearing, the motion will be deemed abandoned and the clerk will not calendar it.

Counsel must file all motions and attached notices of hearing no later than 12:00 noon the day preceding the scheduled hearing. All matters not in compliance with this requirement will not appear on the calendar and will be deemed abandoned until properly noticed. A courtesy copy of the motion and notice of hearing should be furnished to the judge prior to the scheduled hearing.

A copy of any motion which is subject to a traverse, demurrer, or other responsive pleading by the state attorney should be delivered to and received by the assistant state attorney assigned to the case or that attorney's immediate supervisor at least five (5) working days prior to any scheduled hearing. A copy of the traverse, demurrer, or other responsive pleading should be delivered to and received by the defense counsel at least two (2) working days prior to said hearing. It is suggested that hand delivery be utilized by all counsel.

All motions and other pleadings will be signed by the attorney of record whose address, telephone number, and Florida Bar number will be indicated.

17. ORDERS

All orders prepared by counsel and delivered to the court for execution must include the date the motion was heard and be accompanied by sufficient copies and properly stamped and addressed envelopes for delivery to all affected by the order. No mailings will be made without compliance.

Proposed orders prepared by counsel must be delivered to the presiding judge, not to the clerk. If the clerk receives any proposed order intended for signature by a judge, the clerk is not responsible for delivery of the proposed order to the presiding judge. If the clerk receives a proposed order intended for signature by a judge, the clerk is authorized to destroy the proposed order without notice. See Administrative Order S-2012-031 (*Delivery of Proposed Orders*).

18. SPEEDY TRIAL

Demands for speedy trial and motions for discharge will automatically be calendared by the clerk within five (5) days of filing. Upon the filing of a demand for speedy trial or a motion for discharge, the clerk will forward a copy of the demand or motion, along with the court file, to the presiding judge within twenty-four (24) hours of filing.

19. DEPOSITIONS

No deposition or any part of a deposition will be accepted by the clerk for filing unless accompanied by a written certificate stating the contents are necessary for the decision of a matter pending before the court.

20. COMPETENCY AND INVOLUNTARY HOSPITALIZATION HEARINGS

Upon the granting of either a motion to determine competency or motion to determine need for involuntary hospitalization, the assigned judge will appoint at least two (2) mental health experts from an approved list compiled by the Administrative Office of the Courts to examine the defendant

and set the matter for further hearing.

The examining mental health experts need not be present at the scheduled hearing if the expert has provided to the court the original and two (2) copies of the evaluation report at least twenty-four (24) hours in advance of the scheduled hearing, unless otherwise required by the court. Counsel will obtain a copy of such evaluations from the assigned judge the day prior to the hearing date.

Should counsel be unable to stipulate to such evaluations, the matter will be set for a further evidentiary hearing and the examining mental health experts will be notified that their presence is required for such hearing.

21. APPEARANCE AND WITHDRAWAL

No counsel having made a general appearance will thereafter abandon the case or proceeding in which the appearance was made or withdraw as counsel, except by written leave of court obtained after giving notice to the affected client and to opposing counsel.

If a defendant discharges counsel, it will be the responsibility of that defendant to either proceed *pro se* or obtain substitute counsel in sufficient time to meet established trial dates or such other scheduled proceedings.

22. CONTINUANCE POLICY

Florida Rule of Judicial Administration 2.545(e) states that all judges shall apply a firm continuance policy. To implement this policy and provide accountability for continuances, uniform motions for continuance and uniform orders on motions for continuance will be used. Uniform motions for continuance and orders on motions for continuance can be found at www.fljud13.org. Counsel seeking a continuance must file a uniform motion for continuance and notice of hearing and must be present for hearing on the motion. No trial, hearing, or other proceeding will be continued upon stipulation of counsel alone. All motions for continuance of a trial or VOP hearing will be filed and heard prior to the scheduled trial or VOP hearing date.

Failure to complete discovery will not constitute cause for a continuance unless such failure is brought to the attention of the court at least five (5) working days in advance of any scheduled trial or hearing date and is not the result of lack of diligence in pursuing such discovery. Except for good cause shown, no continuance will be granted because a witness has not been served with a subpoena, unless the moving party has attempted service at least five (5) working days before the return date.

23. SCHEDULING CONFLICTS

Counsel who have scheduled hearings or trials in more than one court at the same time will notify the affected judges and counsel prior to the hearing date if the conflict will substantially affect counsel's ability to meet his or her obligation. *See* Fla. R. Jud. Admin. 2.550.

24. WITNESS AND EXHIBIT LISTS

Prior to the commencement of trial or at such other time as the court may direct, counsel will file written witness and exhibit lists with the courtroom clerk and provide copies to the presiding judge, court reporter, and opposing counsel.

25. JURY INSTRUCTIONS

Prior to the commencement of jury selection or at such other time as the court may direct, counsel will provide to the court and opposing counsel all requested jury instructions.

26. PROFESSIONAL CONDUCT AND COURTROOM DECORUM

Counsel will adhere to The Florida Bar's Guidelines for Professional Conduct (<http://www.floridabar.org>) and the Hillsborough County Bar Association's Standards of Professional Courtesy (<http://www.hillsbar.com>). Each judge may announce and enforce additional requirements, or may excuse compliance with any provision(s) of the Guidelines or Standards as that judge deems appropriate.

27. TRIAL WEEKS

Each standard division and Division "H" will schedule weekly trial dockets in accordance with the trial calendar published by the administrative judge of the Criminal Justice Division. The trial calendar may be modified by the assigned judge if deemed necessary. In those instances where a division's trial docket is not taken up with its own cases, the judge of that division will be available to handle the trial of cases which cannot be reached in other divisions.

Each trial division will be available on a weekly basis to handle the trials of cases transferred from the standard divisions and from Division "H." On those occasions when a trial division's docket is not taken up with the trial of cases, the trial division judge will notify the administrative judge and be available, as determined by the administrative judge, to preside and handle any matters on a criminal justice division's calendar including, but not limited to, arraignments, pre-trial conferences, changes of pleas, sentencing hearings, VOP hearings and motion hearings. If there are no criminal justice division matters to be handled by the trial division, the trial division judge will then notify all judges of the circuit and county courts and be available, as determined by the administrative judge, to handle any and all matters as needed.

28. CALENDAR ASSISTANCE

In those instances where any division's calendar is not taken up with its own cases, that judge will notify all judges in the Criminal Justice Division of his or her availability to assist with the handling of any matters on a calendar. If none of the Criminal Justice Divisions require assistance, then that judge will notify all judges of the circuit and county courts and be available, as determined by the administrative judge, to handle any and all matters as needed.

29. CASES TRANSFERRED FOR TRIAL

Except for RICO cases and cases in which the state is seeking the death penalty, once a case is transferred by a standard division or Division "H" to a trial division or other division for trial, absent exceptional circumstances, no pre-trial motions will be entertained by the judge to whom the case has been transferred for trial. RICO cases and cases in which the state is seeking the death penalty may be transferred to a trial division at any time with the consent of the trial division judge.

Once a case has been transferred for trial to another division, the division to which the case has been transferred will be responsible for sentencing hearings, re-trials, re-sentencing hearings and any post-trial motions affecting the sentence filed in accordance with Rule of Criminal Procedure 3.800. Trial divisions will not consider motions under Florida Rules of Criminal Procedure 3.850, 3.851, or 3.853.

If a mistrial is declared, any re-trial will be held in the division in which the trial was held. If the Second District Court of Appeal remands a case for re-trial, any re-trial will be held in the division in which the trial was held.

Except as provided in section 4 of this administrative order, all VOP hearings will be heard in the division in which the case was originally assigned unless the sentencing judge is available and agrees to handle the VOP matter.

30. TIME-SERVED SENTENCES

Whenever a defendant who is in custody is sentenced to “time served,” the defendant will be released from custody immediately upon completion of out-processing from the Hillsborough County Jail. Out-processing will be completed as soon as possible upon the return of the defendant from court to the jail facility and will include the determination of outstanding warrants, capiases, or other lawful orders detaining the defendant on other charges; verification of identification; return of property; and other necessary procedures relating to the release of the defendant.

31. COURT INFORMATION TO BE PROVIDED TO SHERIFF

The clerk must ensure the Sheriff’s Office Detention Department receives on a daily basis all information captured by the clerk during all court proceedings for each Criminal Justice Division.

32. COURT-APPOINTED PRIVATE ATTORNEYS

Court-appointed private attorneys must follow the procedures for payment of fees and costs promulgated by the Justice Administrative Commission (“JAC”). Such JAC procedures may be accessed at www.justiceadmin.org/court_app_counsel.

33. EMERGENCY MATTERS

All criminal justice division judges will be available to handle emergency matters arising in their respective divisions during normal business hours unless arrangements have been made with another judge to substitute during any absence. The administrative judge of the Criminal Justice Division will handle emergency matters if the assigned or substitute judge is not available. If the administrative judge is absent from the courthouse, emergency matters will be presented to an associate administrative judge. If the associate administrative judges are absent from the courthouse, emergency matters will be presented to the duty judge assigned for that particular week. (See www.fljud13.org for duty judge assignments).

One assistant public defender and one assistant state attorney must be designated by their respective offices to handle emergency matters arising during non-business hours. A schedule of such designations will be provided by the public defender and the state attorney to the sheriff. The sheriff’s office will maintain the schedule of such emergency assigned attorneys and their respective telephone numbers.

34. SEALING OR EXPUNGING CRIMINAL RECORDS

All petitions and orders to expunge or seal criminal records will substantially comply with forms set forth in Florida Rule of Criminal Procedure 3.989. If a felony criminal report affidavit is reduced to a misdemeanor and filed in the county court, that affidavit will also be sealed or expunged by the clerk and law enforcement agencies upon the entry of an order sealing or expunging the misdemeanor case which states both case numbers. *See also* Administrative Order S-2008-146 for further information on expunction or sealing of criminal history records.

35. CONFLICT WITH COURT RULES

If any provisions of this administrative order conflict with any rules of court, the rules of court will control.

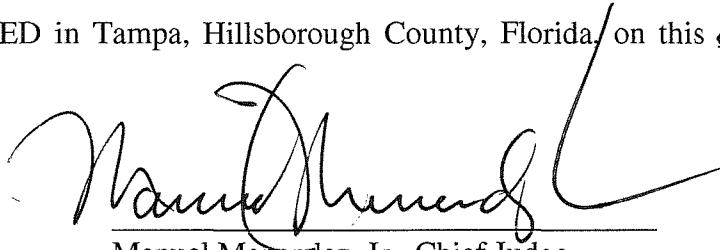
36. PREVIOUS ADMINISTRATIVE ORDER SUPERSEDED

This administrative order supersedes Administrative Order S-2011-040 (*Criminal Justice Division Procedures*).

37. EFFECTIVE DATE

This administrative order is effective July 1, 2012.

It is ORDERED in Tampa, Hillsborough County, Florida, on this 22ND day of June, 2012.



Manuel Menendez, Jr., Chief Judge

Original to: Pat Frank, Clerk of the Circuit Court
Copies to: All Criminal Division Judges
Mark A. Ober, State Attorney
Julianne Holt, Public Defender
David Gee, Sheriff
Gail Reddick, Department of Corrections