

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

**ADMINISTRATIVE ORDER NO. S-1999-093
(Supersedes Administrative Order S-1996-033)**

**RE: EXTRAORDINARY PRETRIAL RELEASE
PROCEDURES TO RELIEVE JAIL OVERCROWDING**

WHEREAS members of the criminal justice community in this circuit recognize that the proper detention and release of accused defendants prior to trial is a matter of great public concern and community safety; and

WHEREAS the Hillsborough County jail facilities must operate within mandatory population guidelines set by law; and

WHEREAS the courts of this circuit seek to comply with jail population guidelines without compromising the safety of the community; and

WHEREAS the Sheriff has reviewed pretrial release procedures and recommended changes to Administrative Order S-1996-033; it is therefore

ORDERED:

MISDEMEANOR, TRAFFIC, AND ORDINANCE OFFENSES

1. When a person is arrested for a misdemeanor of the first or second degree, a criminal traffic offense, or a violation of a municipal or county ordinance, except for charges relating to prostitution, the accused offender shall be released at the scene of the arrest through the issuance of a notice to appear (the "Notice to Appear"), except in those cases requiring mandatory booking pursuant to section two of this order. The arresting officer shall have the discretion, however, to book the accused offender into the county jail if the officer determines that any of the following factors exists:

- a. The subject of the arrest is known by the arresting officer to be a habitual offender;
 - b. The alleged crime is one of a violent nature or one which indicates a reckless disregard for the safety of others;
 - c. The nature of the accused offender is clearly violent or disorderly;
 - d. The arresting officer has reason to believe that the accused offender will repeat the offense if not detained;
 - e. The accused offender does not reside in Hillsborough County or a bordering county;
- or
- f. The accused offender has no valid, verifiable address.
2. The accused offender shall be booked into the county jail if any of the following circumstances exists:
- a. The accused offender failed to sufficiently identify himself or herself or supply the necessary information for completion of the Notice to Appear or traffic citation;
 - b. The accused offender refused to sign the Notice to Appear;
 - c. The arresting officer has reason to believe that the continued liberty of the accused offender constitutes an unreasonable risk of bodily injury to the accused or others;
 - d. The accused offender has no ties with the jurisdiction sufficient to assure the accused's appearance at court or there is substantial risk that the accused will refuse to respond to the notice or citation;
 - e. The arresting officer has a reasonable belief that the accused offender may be wanted in any jurisdiction;
 - f. The arresting officer has a reasonable belief that the accused offender has previously

failed to respond to a notice or summons or has violated the conditions of any pretrial release program; or

g. The accused offender is arrested for prostitution or a prostitution related offense.

3. If a person accused of a misdemeanor, criminal traffic offense, or violation of a city or county ordinance is brought to the jail for booking because the person failed to sufficiently identify himself or herself or supply the information necessary for completion of the Notice to Appear, or because it appeared to the arresting officer that the accused offender had previously failed to respond to a notice or summons or had violated the conditions of any pretrial release program, the booking officer of the county jail shall determine whether the accused offender is likely to appear as directed by making a reasonable investigation of the accused offender, including the following facts:

a. Place and length of residence in the community;

b. Family ties in the community;

c. Employment record;

d. Character and mental condition;

e. Past record of convictions; and

f. Past history of appearances at court proceedings.

4. If the booking officer determines, pursuant to section three of this order, that the accused offender is likely to appear as directed, the officer shall not book the accused offender into the jail, but shall release the offender upon the issuance of a Notice or Promise to Appear.

MISDEMEANOR OR ORDINANCE OFFENSES CHARGED
BY INFORMATION, OR FELONY OFFENSES

5. All accused offenders who are booked into the county jail pursuant to misdemeanor or ordinance offenses charged by information, or pursuant to felony charges, shall be screened, after 48 hours, by a classification section of the Sheriff's Office for possible signature or own-recognizance release. The investigation shall include verification of the accused offender's residence and employment. In addition, the classification section shall contact the alleged victim of the crime (in the case of a crime against a person) to receive input from the alleged victim and inform the victim that the accused offender is being considered for release on his or her own recognizance.

In order to meet the minimum standards for pre-trial release, an arrestee must meet the following qualifications:

A. An arrestee must not be charged with a capital life or first degree felony, or be on active parole or probation.

B. An arrestee must receive at least six points to be considered for release on the arrestee's own recognizance based on the following criteria:

<u>Residence</u>	<u>Points</u>
Current resident 1 year or current resident and 1.5 years at previous address	6
Current resident 6 months or current resident and 1 year at previous address	4
Current resident 4 months or current resident and 6 months at previous address	2
Last 2 years or more in Hillsborough, Pinellas, Pasco, Polk, Manatee or Sarasota	2
<u>Family Ties</u>	<u>Points</u>
Lives with spouse and children OR head of household with children	8

Lives with parent(s), spouse, older person, one or more children,
or other family relative 6

Lives with non-family friend or has regular contact with family 4

Employment, School, Resources

Current job 1 year or more and can return to work 8

Current job 1 year or more or retired or homemaker with children 6

Current job 4 months or current and prior job 6 months, or homemaker 4

Current job or receiving unemployment or workman's compensation 2

Currently in school full-time attending regularly 8

Left school within 6 months and employed or attending school part-time 4

Left school within 3 months and unemployed 2

Health

Poor health and regular visits to doctor 1

Definite knowledge of alcoholism or felony drug use -1

Prior Record

No convictions 2

Units

Felonies 7 times number

Misdemeanors 2 times number

Unit Total

2

3-6

7-13

Points

0

-1

-2

The Sheriff's Office shall present a report on the arrestee recommended for pre-trial release to the judge presiding at preliminary presentations or in Division "O". The court shall consider the arrestee's eligibility for pre-trial release and the State Attorney shall have the opportunity to be heard on the release. Those arrestees approved by the court shall be eligible for pre-trial release. In misdemeanor and criminal traffic cases, the Sheriff may present the report on the arrestee recommended for pre-trial release to the judge at video arraignment or by telephone. Those arrestees approved by the court shall be eligible for pre-trial release.

6. Any accused offender who has failed to appear on one or more occasions on the present felony charge, or who has been arrested on a new charge while released on his or her own recognizance pending disposition of the felony charge, shall not be released on his or her own recognizance except upon order of the chief judge, or the assigned presiding circuit judge. Any accused offender who has failed to appear on a misdemeanor or traffic offense on one previous occasion shall not be released on his or her own recognizance on that charge, but shall be released on \$1,000 bond, unless a bond in a different amount was previously set by the judge issuing the *capias*. Any accused offender who has failed to appear on two or more occasions on a misdemeanor or traffic offense, or who has been arrested on a new charge pending disposition of the original misdemeanor or traffic charge, shall not be released on his or her own recognizance, but shall remain on the bond, or no-bond status, set by the chief judge, or the assigned presiding county judge.

7. Any person who is detained for a substantive violation of probation shall be released only upon order of the chief judge or judge of the division that placed that person on probation.

OTHER PROVISIONS

8. Any accused offender booked into the County Jail on an unserved summons for worthless check or battery charges may be released on his or her own recognizance by the booking officer if the booking officer determines the accused offender is likely to appear based on the criteria set out in section three a - f of this order. Any accused offender with more than five (5) unserved summonses on worthless charges is not entitled to be released on his or her own recognizance by the Sheriff.

9. Any accused offender who is released on his or her own recognizance pursuant to this order, except those released pursuant to a notice to appear, shall receive a notice substantially stating the following:

"You are being released pursuant to administrative order because you have met the criteria for release. You have supplied an address to which all future court process will be sent. As a condition of your release, you must refrain from criminal activity of any kind and you must refrain from any contact with the alleged victim of the crime with which you have been charged except through pretrial discovery pursuant to the Florida Rules of Criminal Procedure. If you violate these conditions, or fail to appear for any of your court dates, your recognizance status will be revoked and you may remain in jail or be required to post a substantial bond until your charges have been disposed."

10. The Sheriff's Office shall have the authority to release on recognizance any individual being held solely on a detainer from another Florida county seventy-two hours after giving notification of the arrest to the criminal justice agency issuing the detainer, if the individual has not been placed in the custody of the issuing agency.

11. The Sheriff's Office has the authority to release members of the United States Armed Forces, confined for violations of Florida criminal law, without approval of the court. Such persons

shall be released pursuant to the restrictions stated herein to the custody of the base commander of MacDill Air Force Base or the commander's designee.

12. The State Attorney or designee has the authority to release pre-trial detainees without approval of the court. Such authority shall extend only to those prisoners whom the State Attorney has determined shall not be prosecuted for the instant charged offense. The State Attorney's office may initiate such an order of release by notifying the Sheriff's Office by telephone, and thereafter filing a written Notice of Release with the Chief Judge, the Clerk, and the Sheriff within one day of the pre-trial detainee's release.

13. Nothing contained herein shall abrogate pretrial release, reduction of bond, or other procedures established by Florida Law or Rule.

14. This administrative order supersedes Administrative Order S-1996-033 and shall be effective immediately.

DONE AND ORDERED in chambers in Tampa, Hillsborough County, Florida, this 7th day of October, 1999.

\s\ F. Dennis Alvarez
F. Dennis Alvarez, Chief Judge

Original to: Richard Ake, Clerk of Circuit Court
cc: All Circuit and County Criminal Judges
Harry Lee Coe, III, State Attorney
Julianne Holt, Public Defender
Cal Henderson, Sheriff
Walt Bucklin, Salvation Army
C. Don Waldron, Probation and Parole
Bennie Holder, Chief of Police, Tampa
Tom Mathews, Chief of Police, Temple Terrace
Bill McDaniels, Chief of Police, Plant City
University of South Florida Police
University of Tampa Police
Tampa International Airport Police