

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

**ADMINISTRATIVE ORDER S-2021-044  
(Supersedes Administrative Order S-2020-014)**

**CIRCUIT CRIMINAL DIVISION**

It is necessary for the proper and efficient administration of justice to revise the allocation of first-degree murder cases, capital sexual battery cases and racketeering cases to provide a more equitable distribution of these case among the standard circuit criminal subdivisions. 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 General Practice and Judicial Administration 2.215(b)(2), it is ORDERED:

**1. Definitions**

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

A. *Capital sexual battery* means a violation of section 794.011(2)(a), Florida Statutes.

B. *Co-defendant case* means two or more defendants charged, in the same case, with at least one felony offense.

C. *Even distribution* means, in the context of case assignments, a system where each standard division receives the appropriate number of cases within each of the four categories of cases (first-degree murder, RICO, capital sexual battery, and all other types) so that the difference between newly-assigned cases in any two standard divisions is not more than one.

D. *Felony* has the same meaning as “felony” provided in section 775.08(1), Florida Statutes.

E. *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.

F. *Proposed division* for all non-first-degree murder, non-RICO, and non-capital sexual battery cases means an assignment of a standard division based on an even distribution made by the clerk upon the filing of a criminal report affidavit after arrest. This term also means an assignment of a standard division 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, i.e. direct file cases.

G. *Specialized division* means any of the following Circuit Criminal Divisions: Division “J” (Post-Conviction Relief Matters), Division “K” (Violation of Probation and Community Control), Division “M” (Mental Health Court), Division “O” (First Appearance / Emergency) Division “V” (Veterans Treatment Court), Division “W” (Pre-Trial Drug Court Intervention), or Division “Y” (Post-Adjudicatory Drug Court Model).

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

I. *Trial division* means any of the following Circuit Criminal Divisions: Trial Division 1, Trial Division 2, or Trial Division 3.

J. *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 “J” – Postconviction Relief Matters**

### **A. Motions Scheduled and Disposed of in Division “J”**

The following motions filed on and after the effective date of this administrative order will be scheduled and disposed of in

Circuit Criminal Division “J”:

- All initial motions seeking postconviction relief in accordance with Florida Rule of Criminal Procedure 3.850 and all related motions (*e.g.* motions to appoint counsel and motions for rehearing); and
- All motions 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).

B. Motions Assigned to and Disposed of in the Division in which the Case was Last Pending

The following motions filed on and after the effective date of this administrative order will be assigned to and disposed of in the division in which the case was last pending:

- All motions 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);
- All motions seeking a correction of jail credit in accordance with Florida Rule of Criminal Procedure 3.801;
- All motions seeking postconviction DNA testing in accordance with Florida Rule of Criminal Procedure 3.853;
- All motions related to initial Rule 3.850 motions filed on or before February 29, 2016 (*e.g.* motions to set hearings and motions to appoint counsel); and
- Any other matter that reopens or addresses a closed case.

**3. Division “K” – Violation of Probation**

A. Technical Violation

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 Circuit Criminal Division “K.”

**B. New Misdemeanor Charge Violation**

All other VOP matters arising in any standard division as a result of any alleged violation involving a new misdemeanor charge, including the new misdemeanor charge, will be scheduled and disposed of in Division “K.” If 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.

**C. Proposed Warrant**

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.

**D. New Felony Charge Violation**

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.

**4. Division “M” – Mental Health Court**

Mental Health Criminal Division “M,” colloquially known as Mental Health Court, provides court-supervised diversion for eligible defendants who are identified as having a mental illness into available mental health treatment programs in accordance with an agreement between the defendant and the State Attorney’s Office. The Mental Health Court also monitors eligible defendants found incompetent to proceed and all defendants adjudged not guilty by reason of insanity. For more information on Mental Health Criminal

Division “M,” see Administrative Order S-2021-019 or successor administrative orders.

**5. Division “V” – Veterans Treatment Court**

Veterans Treatment Court – consisting of both a pre-trial intervention program component and a post-adjudicatory component – diverts eligible veterans with service-related issues into available treatment programs for veterans without compromising the safety of the public. For more information on Veterans Treatment Court Division “V,” see Administrative Order S-2016-032 or successor administrative orders.

**6. Division “W” – Pre-Trial Drug Intervention Program**

Drug Court Division “W” serves as the pre-trial diversion and intervention program division available to defendants who have been charged with a non-violent felony offense and who have not been previously adjudicated guilty of more than two non-violent felony offenses. Eligible defendants must be identified as having a substance abuse problem and amenable to drug treatment. Defendants will be required to enter into a pre-trial intervention contract, but will not be required to enter a plea of guilty or *nolo contendere* to the charges that caused them to be transferred to the drug court division. 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 Drug Court Division “W,” see Administrative Order S-2020-009 or successor administrative orders.

**7. Division “Y” – Post-Adjudicatory Drug Court Program**

Drug Court Division “Y” serves as the post-adjudicatory treatment-based drug court division handling eligible criminal offenses. The defendants’ cases in this division will be strictly managed by the presiding judge of Drug Court Division “Y” according to the drug court model. For more information on Drug Court Division “Y,” including how eligible cases are transferred from the assigned standard division or Division “K” to Drug Court Division “Y,” see Administrative Order S-2020-009 or successor administrative orders.

**8. Administrative and Associate Administrative Judges**

An administrative judge is designated to assist with the administrative supervision of the Circuit Criminal Division. Associate administrative judges are designated to assist with the administrative supervision of the standard divisions and the specialized drug court and veterans treatment court divisions. The administrative judge and associate administrative judges are designated by a separate administrative order.

**9. Assignment of Cases**

A. Division "O"

i. Criminal Report Affidavit and Arrest

Upon the filing of a criminal report affidavit and booking of a defendant through the Hillsborough County Sheriff's Office, the clerk will designate a sequential case number, designate a proposed division for all case types except First-Degree Murder, Felony Capital Sexual Battery and RICO, and assign the case to Division "O." The clerk will notate these designations and assignment in the progress docket of the case. All matters will remain assigned to Division "O" until a charging decision has been made by the state attorney's office or grand jury. If an information is filed, the clerk will then transfer the case to a circuit criminal division as provided in this administrative order.

ii. Direct File Cases

If the state attorney's office files an information prior to the arrest of a defendant (direct file cases), the clerk will designate a sequential case number, reveal the proposed division, and assign the case to Division "O." The clerk will notate the proposed division in the progress docket of the case. The clerk will transfer the case to a circuit criminal division after the defendant has been arrested and booked on that case.

iii. Indictments

If the state attorney's office files an indictment prior to the arrest of a defendant, in accordance with section 905.26, Florida Statutes, the clerk will not disclose that an indictment has been filed until the defendant has been arrested. Upon the filing of an indictment, the clerk will designate a sequential case number and

assign the case to Division “O”. Once an indicted defendant is arrested, the clerk will publicly display the sequential case number. Upon the completion of the first appearance hearing, the clerk will transfer the case to a circuit criminal division as provided in this administrative order.

B. Circuit Criminal Division Assignment

Simultaneous with the filing of any indictment or information, the state attorney’s office 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. Using the information provided to the clerk by the state attorney’s office, the clerk will transfer a case from Division “O” to a circuit criminal division using the following procedures:

i. First-degree murder

Upon the filing of an indictment charging first-degree murder, the case will be assigned to a circuit criminal division using a random equitable distribution process. 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

Upon the filing of an indictment or information charging a violation of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act (sections 895.01 – 895.06, Florida Statutes), the case will be assigned to a circuit criminal division using a random equitable distribution process. 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. Capital sexual battery

Upon the filing of an indictment or information charging capital sexual battery, the case will be assigned to a circuit criminal division using a random equitable distribution process. All pending cases involving any defendant charged in the indictment or information will be transferred to the division to which the capital sexual battery case is assigned.

iv. 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 assigned to the division that was identified as the proposed division. In the event of multiple proposed divisions, the newly filed case will be assigned to the division that was the earliest assigned 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 assigned to the division that has the lowest pending case number. 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 assigned to the division that was identified as the proposed division. In the event of multiple proposed divisions, the newly filed case will be assigned to the division that 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 assigned to the division that has the lowest pending case number. All co-defendants' pending cases will be transferred to the assigned division if necessary. If co-defendants have pending cases in different divisions, all pending cases will be transferred to the division that has the lowest pending case number.

C. First-Degree Murder, RICO, and Capital Sexual Battery Cases

i. Applicability of Random Equitable Distribution

The random equitable distribution process for first-degree murder, RICO, and capital sexual battery cases applies to all newly filed cases among these three case types and any existing case where the State's filing decision redefines the case categorization into one of these three case types.

ii. Monitoring and Adjustment of Assignments

The clerk will monitor standard division assignments for these three case types on a quarterly basis at a minimum. The clerk will notify the chief judge and the administrative judge if the clerk identifies any imbalance of caseload assignment of these three case types. If any adjustments to case counts among these three case types are necessary, the clerk will coordinate with the chief judge and administrative judge before making such adjustments. Adjustments may be periodically necessary in order to ensure the random equitable distribution of cases.

D. Re-Filed Cases

Whenever any case assigned to a division of the Circuit Criminal Division is dismissed by the state attorney's office (*nolle prosequed*) and is thereafter re-filed, the re-filed case will be assigned to the division to which the case was originally assigned. The state attorney's office must identify in writing to the clerk the division to which the case was originally assigned.

E. Habeas Corpus Petitions

All habeas corpus petitions will be assigned to Division "J" except petitions involving custody of minors who have not been charged as adults and petitions filed under the provisions of "The Baker Act." Petitions involving custody of minors who have not been charged as adults will be assigned to the Juvenile Delinquency Division. Petitions filed under the provisions of "The Baker Act" will be assigned to the Probate, Guardianship, Mental Health and Trust Division. If the judge presiding in Division "J" determines that a habeas corpus petition involves relief unrelated to matters covered in Florida Rule of Criminal Procedure 3.850, the judge will transfer the petition to the Circuit Criminal Division in which the underlying case was last pending.

F. 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" unless the presiding judge of Division "J" is

ineligible. 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 Circuit Criminal Division will be assigned as the commissioner of the Second District Court of Appeal.

**10. Reassignment upon Disqualification**

A. Standard Division

If any judge presiding in a standard division enters an order of disqualification or the Second District Court of Appeal grants a petition for writ of prohibition that requires the assignment of a different trial court judge, the clerk will reassign the case to one of the other standard divisions based on an even distribution.

B. Specialized Division

If any judge presiding in a specialized division enters an order of disqualification or the Second District Court of Appeal grants a petition for writ of prohibition that requires the assignment of a different trial court judge, the clerk will reassign the case to the standard division in which the case would have been pending if not for the establishment of the specialized division. If the case was transferred from a standard division to a specialized division, the clerk will reassign the case back to the standard division from which the case was previously transferred.

C. Trial Division

If any judge presiding in a trial division enters an order of disqualification or the Second District Court of Appeal grants a petition for writ of prohibition that requires the assignment of a different trial court judge, the clerk will reassign the case back to the standard division from which the case was previously transferred to the trial division.

**11. 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.

## **12. Bond Reduction and Release on Recognizance**

### **A. Criminal Case**

If 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 for consideration and approval. If the presiding judge is not available, the stipulation will be presented to the administrative judge of the Circuit Criminal 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 and file an application for modification of bail with a notice of hearing in accordance with Florida Rule of Criminal Procedure 3.131(d)(2).

### **B. VOP Matter**

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 Circuit Criminal Division, an associate administrative judge or the chief judge. If defense counsel schedules a hearing for the reduction of bond or release on recognizance, defense counsel will notify the defendant's probation officer of the scheduled hearing so that probation information can be made available for the hearing.

## **13. Arraignments**

### **A. Written Notice**

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.

B. Timely Hearings

Each circuit criminal division will handle arraignments involving incarcerated defendants on a timely basis. The arraignment hearings must be scheduled by the clerk and set to be heard on the respective judge's docket within seven working days (excluding weekends and holidays) after the filing of the information or indictment. If 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 working days (excluding weekends and holidays) after the arrest of the defendant.

C. Monthly Report

The clerk will provide a monthly report to the chief judge indicating, by circuit criminal division, any case involving an incarcerated defendant where the clerk is unable to schedule the 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 circuit criminal division are arraigned within the 7-day time period, the report should include a statement to this effect.

**14. Revocation of Probation or Community Control Involving Incarcerated Defendants**

A. Timely Hearings

Each circuit criminal division will handle first time hearings on revocations of probation or community control involving incarcerated defendants on a timely basis. The revocation hearings must be scheduled by the clerk and set to be heard on the respective judge's docket no later than seven working days (excluding weekends and holidays) after the arrest of the defendant.

B. Monthly Report

The clerk will provide a monthly report to the chief judge indicating, by circuit criminal 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 circuit

criminal 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. 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.

**16. Plea Agreements**

If the assistant state attorney and the defense counsel or unrepresented 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.

**17. Motions**

A. Time of Hearing

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 the pre-trial conference. 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.

B. Scheduling of 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.

C. Timely Notice of Hearing

Except for demands for speedy trial and motions for discharge, all motions must be filed simultaneously with a notice of hearing containing the scheduled hearing time. Counsel must file all motions and attached notices of hearing no later than 12:00 p.m.

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.

D. Submission of Legal Authority

All legal authority relied upon in support of the motion should be provided to the court and opposing party at least three days prior to the motion hearing.

E. Response from State Attorney

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 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 working days prior to the hearing. It is suggested that hand delivery or electronic mail be utilized by all counsel.

**18. Orders**

A. Submission of Proposed Orders and Judgments

An attorney who is requested to submit a proposed order or judgment must do so through the Florida Courts E-Filing Portal ("Portal"). Unless the presiding judge directs otherwise, all proposed orders and judgments must be submitted through the Portal for electronic signature in Portable Document Format (PDF) or Portable Document Format for Archiving (PDF/A).

B. Title

All proposed orders will contain, in the title of the order, the exact nature of the court's ruling and must fairly apprise the reader of the action being ordered. Phrasing such as "order granting. . ." or "order denying. . ." is preferred over "order on. . ."

C. Form

No proposed order will be submitted to a judge unless such order contains in the body of the order a reference to the date(s) of the hearing during which the subject matter of the order was

argued before the court and the names of the parties and counsel present.

D. Objections

Any attorney or party who objects to the entry of a proposed order which has been submitted to the presiding judge must immediately notify the judge's office via telephone or e-mail. If the objection notification is made by e-mail, the opposing attorney or party must be copied on the e-mail message. The objecting attorney or party must submit an alternative proposed order within two days of communicating the objection. If an alternative proposed order has not been received by the court within two days, the court will consider the objection withdrawn.

**19. Speedy Trial**

Demands for speedy trial, notices of expiration of speedy trial time, and motions for discharge will automatically be calendared by the clerk within five days of filing. Within 24 hours of the filing of a demand for speedy trial, a notice of expiration of speedy trial time, or a motion for discharge, the clerk will notify the presiding judge of the filing.

**20. 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.

**21. Competency Examinations**

A. Appointment of Mental Health Expert

In accordance Florida Supreme Court Administrative Order AOSC17-12, upon the granting of a motion to determine competency, the assigned judge will initially appoint one mental health expert from an approved list compiled by the Administrative Office of the Courts to examine the defendant.

B. Timely Submission of Evaluation Report

Unless otherwise required by the court, the examining mental health expert need not be physically present at the scheduled

hearing if the expert has electronically submitted the evaluation report to both the court and counsel at least 24 hours in advance of the scheduled hearing.

C. Hearing

If counsel are unable to stipulate to the findings of the first mental health expert, the court may appoint up to two additional experts. In accordance with section 916.12(2), Florida Statutes, a defendant must be evaluated by no fewer than two experts before the court commits the defendant, except if one expert finds that the defendant is incompetent to proceed and the parties stipulate to that finding, the court may commit the defendant without further evaluation. Notwithstanding any stipulation by the state and the defendant, the court may require a hearing with testimony from the expert or experts before ordering the commitment of a defendant.

**22. Appearance and Withdrawal**

The appearance of an attorney and termination of the appearance of an attorney must comply with Florida Rule of General Practice and Judicial Administration 2.505. If a defendant discharges counsel, it will be the responsibility of that defendant to either proceed as a self-represented party or obtain substitute counsel in sufficient time to meet established trial dates or other scheduled proceedings.

**23. Continuance Policy**

A. Uniform Motions and Orders

Florida Rule of General Practice and Judicial Administration 2.545(e) requires all judges to 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](http://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.

B. No Continuances Based Solely on Stipulations

No trial, hearing, or other proceeding will be continued upon

stipulation of counsel alone.

C. Timing of Filing and Hearing

All motions for continuance of a trial or VOP hearing will be filed and heard prior to the scheduled trial or VOP hearing date.

D. Failure to Complete Discovery

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 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 working days before the return date.

**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. Trial Weeks**

A. Standard Divisions

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

B. Trial Divisions

Each trial division will be available on a weekly basis to handle

the trials of cases transferred from the standard divisions. 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 circuit criminal division's calendar. If there are no circuit criminal 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.

### **27. Calendar Assistance**

If a division's calendar is not taken up with its own cases, that judge will notify all judges in the Circuit Criminal Division of his or her availability to assist with the handling of any matters on a calendar. If none of the Circuit Criminal 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.

### **28. Cases Transferred for Trial**

#### **A. Pre-Trial Motions**

Once a case is transferred by a standard division to a trial division or other division for trial, no pre-trial motions will be entertained by the judge to whom the case has been transferred for trial unless the judge consents to doing so.

#### **B. Post-Trial Matters**

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 3.801, 3.850, 3.851, or 3.853. See section 2 of this administrative order.

#### **C. Remand for Re-Trial**

If a mistrial is declared or 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 unless another division judge is available and agrees to conduct the re-trial.

D. VOP Matters

Except as provided in section 3 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.

**29. 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; and return of property.

**30. 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 Circuit Criminal Division.

**31. 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”), which may be accessed at <http://www.justiceadmin.org>.

**32. Emergency Matters**

A. Assigned Judge

All circuit criminal 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. Any matter arising under Florida Rule of Criminal Procedure 3.191 (*Speedy Trial*) is considered an emergency matter. The administrative judge of the

Circuit Criminal 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](http://www.fljud13.org) for duty judge assignments).

B. Assigned Assistant Public Defender and Assistant State Attorney

The Public Defender and State Attorney will ensure that at least one assistant public defender and one assistant state attorney are assigned by their respective offices to handle emergency matters arising during non-business hours. The Sheriff's Office will maintain the respective emergency duty mobile telephone numbers of the Public Defender's Office and the State Attorney's Office for use by the duty judge.

**33. Sealing or Expunging Criminal Records**

A. Assignment of Petition to Administrative Judge

All petitions to expunge or seal criminal records in accordance with sections 943.0578, 943.0583, 943.0585, or 943.059, Florida Statutes, will be filed in the division in which the underlying criminal case was last pending. Petitions must include all applicable case numbers. The state may file a response to the petition in accordance with Florida Rule of Criminal Procedure 3.692, 3.693, or 3.694. The clerk will present the petition and any filed response to the administrative judge for review and entry of an appropriate order.

B. Report of Unpaid Fees, Charges, and Costs

Prior to the administrative judge signing an order granting expunction or sealing of a criminal history record or any part of a criminal history record, the clerk will report to the judge the amount of all court-related fees, charges and costs unpaid in the case.

C. Felony Reduced to a Misdemeanor

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.

D. Public Defender to Receive Copy of Order

The clerk will provide to the public defender a certified copy of all orders to expunge or seal criminal history records.

**34. Professional Conduct, Professionalism Expectations and Courtroom Courtesy**

Counsel will adhere to The Florida Bar's Guidelines for Professional Conduct,<sup>1</sup> The Florida Bar's Professionalism Expectations,<sup>2</sup> and the Hillsborough County Bar Association's Standards of Professional Courtesy.<sup>3</sup> Each judge may announce and enforce additional requirements, or may excuse compliance with any provision(s) of the Guidelines, Expectations, or Standards as that judge deems appropriate.

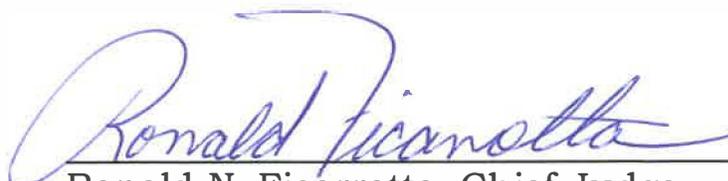
**35. Previous Administrative Order Superseded**

This administrative order supersedes Administrative Order S-2020-014 (*Circuit Criminal Division*).

**36. Effective Date**

This administrative order is effective July 1, 2021.

ENTERED on June 28, 2021.

  
Ronald N. Ficarrotta, Chief Judge

Original: Cindy Stuart, Clerk of the Circuit Court  
Copy: All Criminal Division Judges  
Andrew H. Warren, State Attorney  
Julianne Holt, Public Defender  
Chad Chronister, Sheriff  
Ita M. Neymotin, Regional Counsel, Second District  
Patrick Barrentine, Florida Department of Corrections

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<sup>1</sup> <https://www.floridabar.org/prof/presources/presources002/>

<sup>2</sup> <https://www.floridabar.org/wp-content/uploads/2017/04/professionalism-expectations.pdf>

<sup>3</sup> <https://www.hillsbar.com/page/Professionalism>