

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO. 2-56.3

IN RE: GUIDELINES FOR SETTING THE FIRST APPEARANCE DOCKET

WHEREAS, Rule 3.130 Fla. R. Crim. Pr. mandates that "Except when previously released in a lawful manner, every arrested person shall be taken before a judicial officer, either in person or by electronic audiovisual device in the discretion of the court, within 24 hours of arrest;" and,

WHEREAS, the interpretation of the phrase, "every arrested person" is not uniform throughout the state, with many circuits interpreting it to apply only to individuals arrested on new criminal charges cognizable within the jurisdiction; and,

WHEREAS, the first appearance hearing docket has grown to nearly unmanageable proportions, with many arrestees presented before the magistrate who do not have pending local criminal charges; and,

WHEREAS, separate procedures are necessary for juveniles facing adult charges in order to prevent juvenile defendants from coming into contact with adult defendants; and

WHEREAS, this court is mindful of its duty pursuant to Florida Rule of Judicial Administration 2.215, to review the status of the jail population and insure due process for all, and of the public purpose served by cooperating with other jurisdictions and of the importance of informing arrested individuals of the cause of, and authority for, their arrest, even if it is not based on the process of this court; and,

WHEREAS, the officers of Pre-trial Services (PTS) are stationed at the booking section of the Polk County Jail where they interview every person placed in custody shortly after their arrival there to determine their eligibility for Pre-trial Release (PTR); and

THEREFORE, because PTS officers are in the best position to assist the court with minimizing the first appearance docket and at the same time maximizing the inmates' information about their situation, it is,

ORDERED AND ADJUDGED that:

PTS staff will interview **EVERY** person admitted to the Polk County jail. Staff will record, and communicate to the appropriate officials, any concerns or complaints about the defendant's identity or the court's jurisdiction and, to the extent possible, assist the inmate in

contacting attorneys, family or other representatives. PTS staff will assist in completing indigency papers, arranging language interpreters and disability accommodations for the first court appearance.

To help minimize the first appearance docket and accord due process to all, the following procedure will be followed:

1. PTS staff will prepare a list (supported with the documentation underlying the arrest and the legal authority for incarceration) of all of those inmates **NOT** charged with new criminal offenses triable in this county.
2. Early each weekday morning the list will be presented to the designated county judge (normally the first appearance judge). If possible, the list should be arranged by category of detainee, e.g., out-of-county warrants, parole warrants, extraditions, civil writs, etc.
3. The judge will review the list and decide if any of those on the list should appear at the first appearance hearing that day. The original of the list will be filed in a miscellaneous court file and copies provided each day to the designee of the state attorney and public defender.
4. Additionally, PTS staff will, at the same time present the judge with a list of those persons who are legally entitled to a first appearance hearing, but who seem to be obvious candidates for release on PTR (guidelines for these cases will be developed). The judge may then choose to authorize the release of these new arrestees before a first appearance hearing with any appropriate conditions and with clear information about the next court appearance. Again, affidavits of insolvency will be completed and the lists of those who are released without a hearing will be provided to the designee of the state attorney and public defender, and filed in the court file.
5. After meeting with the judge each morning, PTR staff will provide the sheriff with the order from the judge removing some inmates from the first appearance roster or releasing others without a first appearance hearing. Of course, this will occur in time to eliminate the cases from the First Appearance docket. **Doubts about whether an inmate should be taken to first appearance hearings should be resolved in favor of taking the inmate before the judge.**
6. Additional Procedures for Juveniles Facing Adult Charges: The Polk County Sheriff's Office will transport juveniles who are facing adult charges to the courthouse for first appearance hearings. Those first appearance hearings will be held with the Felony Violation of Probation hearings at 1:30 p.m. on weekday afternoons. Because juvenile defendants cannot come into contact with adult defendants at the Polk County jail, their first appearance hearings must be conducted separately. Each morning between 8:30 a.m. and 9:00 a.m., the bailiff supervisors will notify the judge assigned to the Felony Violation of Probation division if a juvenile is scheduled for a first appearance hearing that day. Thereafter, the first appearance judge will notify the Public Defender's Office, the State Attorney's Office, the Polk County Clerk of the Circuit Court, PTS, and the

Court Interpreter Department, if necessary. This procedure does not apply to weekend first appearance hearings.

7. Administrative Order No. 2-56.2, dated May, 27, 2010, is hereby SUPERSEDED.

DONE AND ORDERED on this 26th day of February, 2013.

WM. BRUCE SMITH, Chief Judge