

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY

ADMINISTRATIVE ORDER NO. 4.101-2/21\*

IN RE: ADMINISTRATIVE PROCEDURES  
IN THE CRIMINAL DIVISION

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Pursuant to the authority conferred by Florida Rule of Judicial Administration 2.215, it is hereby **ORDERED** that the following administrative procedures are established for the Criminal Division of the Circuit and County Court:

**A. FILING OF CAPITAL CASES**

1. All capital cases will be assigned by the Clerk of Court on a rotating basis amongst the judges in the Circuit Criminal Division.
  - a. This assignment will occur upon arrest of the defendant(s), the filing of a direct file arrest warrant, or filing of an indictment.
  - b. This rotational assignment shall be separate from, and independent of, the non-capital wheel.
  - c. Any divisional assignments made under the previous Administrative Order for cases not yet filed will be canceled by the Clerk and, upon the arrest of the defendant, the filing of a Direct File Arrest Warrant, or the filing of an Indictment, will be assigned to the division next on the rotational assignment.
2. The assignment of capital cases shall be made without reference to any other felony charge involving the same defendant. If a capital case is assigned to a division that is different than a lower numbered felony case involving the same defendant, the State shall file a motion to transfer the lower numbered felony case to the division to which the capital case is assigned.

**B. FILING OF NON-CAPITAL CASES**

With the exception of those cases assigned to Division Y pursuant to Administrative Order 4.502, the Clerk of Court shall assign all non-capital cases on a rotating basis among the judges in the Criminal Division using a blind-assignment process.

**C. CAPTIONS TO INCLUDE DIVISION ASSIGNMENTS**

The caption of all pleadings and notices filed in the criminal division shall include the letter

designation of the division to which the case is assigned.

**D. ARRAIGNMENT**

1. When a defendant appears at first appearance and an information has not been filed, arraignment shall be scheduled thirty (30) days from the date of arrest at the Criminal Justice Complex.
2. When an information is filed prior to the expiration of thirty (30) days, the arraignment of a defendant in custody will be rescheduled on Tuesday afternoons at 1:30 p.m. in Division "KK2" at the Criminal Justice Complex, unless waived in writing.
3. If formal charges are not filed by:
  - a. The thirtieth (30th) day following the arrest or service of a capias for a defendant in custody, the defendant shall be brought to a first appearance hearing for further proceedings consistent with Florida Rule of Criminal Procedure 3.134.
  - b. The arraignment date for Defendants on pre-trial release, the Court shall take action consistent with Florida Rule of Criminal Procedure 3.134. In the event the State Attorney subsequently files formal charges relating to such an arrest or service of a capias, the Clerk shall proceed with the provisions set forth in Florida Rule of Criminal Procedure 3.131(j).
4. Arraignment for defendants released from custody shall be set on the day of the week designated by the Judge of the assigned felony division following the thirtieth (30th) day after the date of arrest or as soon as practicable.
  - a. Prior to release, the defendant must sign a "Notice of Arraignment" which shall be completed by the Booking Office, indicating that the defendant is to report to the assigned Felony Division Courtroom in the Palm Beach County Courthouse, West Palm Beach, Florida at 8:45 a.m. on the day of arraignment.
  - b. Notwithstanding the above provision, a defendant charged with Felony-Driving with a Suspended License who has been released on bond prior to arraignment, shall be set for an arraignment at the Criminal Justice Courtroom, Div. "KK2", at 1:30 p.m. on the Tuesday following the 45<sup>th</sup> day after the date of arrest.
5. No Defendant shall be released from custody without signing for a court date.
6. Unmarried minors shall not be arraigned on any criminal charge prior to notification of parents or guardian, unless otherwise ordered by the court. The state attorney shall, upon the filing of the accusatory writ, notify the Clerk of the defendant's minority status and address of parents. The Clerk shall immediately notify the defendant's parents or guardian of the charge(s) and if unable to do so, notify the judge at arraignment. The Clerk's notification shall be pursuant to F.S. 925.07 (1991).

7. All persons released from custody shall comply with the conditions of the undertaking as set forth in the Florida Rules of Criminal Procedure and any other conditions set by the Court.
  - a. The defendant shall keep his/her attorney and the Clerk notified at all times of his/her correct mailing address.
  - b. The mailing of a notice to the last address furnished to the Clerk by the defendant shall constitute service of the notice when it is mailed at least five (5) days (excluding Saturday, Sunday, and holidays), prior to the date of the required appearance.
8. If a defendant is on pre-trial release, the filing of an information or indictment shall not cause a capias to be issued except by order of the judge assigned the case.

**E. UPFILED CHARGES**

1. When a misdemeanor charge has been upfiled to a felony charge, the county court judge assigned to the misdemeanor charge is hereby designated to act as a first appearance judge on the felony charge for purposes of imposing conditions of bail and/or setting the amount of bond. Should the county court judge choose to accept the designation as a first appearance judge and set the conditions of bail or the amount of bond, then the defendant will not be brought before a judge at the Criminal Justice Complex.
2. When a felony charge initially brought by information is upcharged via an indictment, the case shall stay in the circuit felony division it was originally assigned. This provision applies even if the indictment charges a capital offense(s). However, in order to ensure accurate tracking of capital assignments, if the indictment charges a capital offense(s) the Clerk shall reassign the case into the capital wheel within the same division.

**F. ASSIGNMENT OF COMPANION CASES (INVOLVING ONE DEFENDANT ONLY OR MULTIPLE DEFENDANTS) WITHIN THE CRIMINAL DIVISION OF THE CIRCUIT COURT**

1. When a defendant has more than one case pending against him/her, all cases will be reassigned to the division having the case with the lowest case number, provided however, this shall not apply to defendants charged under Section A above. The assignment shall occur at the time of the arrest.
2. Co-defendants arrested at the same time will be assigned a separate case number by the Clerk. Upon filing of the Information by the State, the defendant with the lowest booking number determines the division assignment for all of the defendants. If a co-defendant has a case already pending in another division, then all defendants are transferred into that division, regardless of the booking number.

3. When a defendant has more than one case pending against him/her and the case has more than one defendant, reassignment of any case shall occur only upon motion, hearing, and order of court in the transferring division. However, transfer shall be done only with the consent of the Judge of the division into which the case is being transferred.

#### **G. SETTING AND RESETTING CASES FOR TRIAL**

1. In capital cases, when an indictment has been filed, the Clerk will contact the division Judicial Assistant to secure an arraignment date. After the defendant is arraigned, the file will be sent to the division Judge for setting of trial date or other action.
2. All other cases shall be set for trial at the direction of the Judge presiding in each division.
3. Upon the receipt of a demand for speedy trial, the Clerk shall immediately notify the Judicial Assistant of the assigned division for further action by the Judge consistent with the Florida Rules of Criminal Procedure.

#### **H. CALENDAR REVIEW AND CALL**

1. If the criminal division uses a calendar call system, the notice for trial shall designate the date and time of the calendar call and the trial period following same.
2. At the calendar call the Court shall set the order of cases for trial. All cases ready for trial will be given a specific trial date or placed on call. Any potential conflict shall be brought to the attention of the Court at the calendar call, or as soon as possible, or shall be considered waived.
3. All defendants who are not in custody shall be present at calendar call unless their attendance has been waived by the Court prior to the date of the calendar call.
4. Defendants who are in custody will not automatically be brought to Court. Unless the defendant's presence is requested by defense counsel by giving notice to the Judicial Assistant prior to Noon of the day preceding calendar call, the defendant's presence shall be deemed waived. This section may be modified at the option of the division Judge.

#### **I. SCHEDULING HEARINGS**

1. As to the County Criminal Division, the clerk shall continue to set Case Disposition hearings when a plea of not guilty and a waiver of Arraignment is filed by the attorney of record.
2. Counsel shall schedule hearings through the Judicial Assistant and shall notice opposing counsel in accordance with the Rules of Criminal Procedure. Upon obtaining a hearing time, counsel shall file a notice of hearing with the Clerk of Court immediately. No hearing shall be scheduled with less than five (5) days notice unless agreed to by all parties.

3. All Notices of Hearing shall contain a statement setting forth that counsel has made a good faith effort to resolve the issues raised without a hearing, but has been unable to do so.
4. Emergency Hearings: Contact Judicial Assistant.
5. Whenever the Court determines that a case should be heard, but appropriate notices have not been filed with the Clerk, the Judicial Assistant shall notify the Clerk in writing when the case is to be heard.

**J. SENTENCING**

1. Where a pre-sentence investigation (PSI) is not ordered, the Court shall schedule sentencing in approximately fifteen (15) days from a plea of guilty or no contest, or upon a finding of guilt, unless otherwise ordered by the Court.
2. When a PSI is ordered, the Court shall schedule sentencing approximately forty (40) days from the time of ordering the PSI, and the PSI shall be due within thirty (30) days from the finding of guilt. It shall be the responsibility of the Department of Corrections to specifically request additional time, if needed, to complete the PSI.
3. The Court shall be responsible for insuring the defendant is sentenced without undue delay and shall notify all parties of the sentencing hearing.

**K. RELEASE OF DEFENDANT UPON VERDICT OF NOT GUILTY**

Upon a verdict of not guilty in a criminal case the defendant shall immediately be released from custody upon that cause and shall not be further restrained in that cause.

**L. MANDATES FROM APPELLATE COURTS**

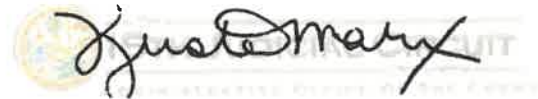
Upon the receipt of a Mandate from an Appellate Court, the Clerk shall send a memorandum to all parties acknowledging receipt of the Mandate with a copy attached. The Clerk shall **email** the Mandate to the appropriate Judge **at his or her divisional email**, to be set for a status conference within seven (7) days.

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M. **EMERGENCY MATTERS**

In the event it is necessary to contact a Judge or court employee for an emergency matter, the Court Administrator will maintain a confidential list of telephone numbers of both Judges and Judicial Assistants. The list will have limited distribution.

**DONE and SIGNED**, in Chambers, at West Palm Beach, Palm Beach County, Florida  
this 23<sup>rd</sup> day of February 2021.



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Krista Marx  
Chief Judge

\* supersedes admin. order 4.101-10/20