

**IN THE CIRCUIT COURT
OF THE EIGHTEENTH JUDICIAL CIRCUIT IN AND FOR
SEMINOLE COUNTY, FLORIDA**

<http://www.flcourts18.org>



**CRIMINAL DIVISION OPERATIONS AND POLICY
MANUAL**

Including Administrative Orders and Forms

TABLE OF CONTENTS

Criminal Division Directory.....	3
Organization.....	4
Courthouse Security.....	4
Schedule and Vacations.....	4
First Appearances.....	5
Arraignments.....	5
Docket Sounding.....	5
Continuances.....	5
Trial Scheduling Conferences.....	5
Pretrial Motions.....	6
Plea Negotiations and Plea Offers.....	6
Pleas in Private Counsel Cases.....	6
Sentencing Hearings.....	6
Jury Selection.....	6
Conduct of Counsel and Defendants Not Represented By Counsel.....	7
Victims of Crime.....	7
Restitution.....	8
FORMS AND ADMINISTRATIVE ORDERS:	
Plea Agreement.....	10
Admission of Violation of Probation/Community Control.....	13
Administrative Order No. 09-06 (Courtroom Decorum).....	15
Administrative Order No. 15-42S (Bail Schedule).....	18

CRIMINAL DIVISION DIRECTORY

Judge Marlene M. Alva 407-665-4993
(Administrative Judge)
Judicial Assistant – Collette Colegrove

Judge Melanie Chase 407-665-4926
Judicial Assistant – Jennifer Jones

Judge Donna L. McIntosh 407-665-4939
Judicial Assistant – Charlotte Legette

Judge Debra S. Nelson 407-665-4996
Judicial Assistant – Brandy Jenkins

Court Administration Offices 407-665-4945

Courthouse Security – Lt. Diana Lemma 407-665-6282

CRIMINAL DIVISION FAX NUMBER 407-665-4992

1. Organization

Four circuit judges are assigned to the criminal division. Original cases which are not capital cases are assigned by computer equally on a random basis. Capital cases and "Jimmy Ryce Act" cases are assigned randomly on a separate computer program. Other cases, such as violations of probation and motions for post-conviction relief, are assigned pursuant to Administrative Order. Assignments of Writs of Mandamus, Certiorari, and Prohibition arising out of criminal charges in the county court of Seminole County are assigned by the Criminal Division Administrative judge.

The Criminal Division Administrative Judge is responsible for criminal division operations, including maintaining the caseload distribution, maintaining the roster of registry conflict attorneys, preparation of the Criminal Division Master Calendar, preparation of the Jury Qualification Roster, publication of the Operations Manual and reassignment of cases in which a judge has recused or has been disqualified. Writs of Mandamus, Prohibition, and Certiorari arising out of criminal cases in the Seminole County Court are assigned by the Criminal Division Administrative Judge. The Criminal Division Administrative Judge also acts as liaison with the other components of the criminal justice system, including the Clerk and Sheriff, and assists the Chief Judge to carry out matters of policy.

The Criminal Court Operations Committee is composed of Circuit and County Court Judges appointed by the Criminal Division Administrative Judge. This committee regularly meets to discuss organizational and procedural problems and recommend changes in procedure.

The Clerk of the Court is responsible to maintain and coordinate the trial dockets of the four judges. Judicial Assistants do not prepare or control trial dockets.

2. Courthouse Security

The Seminole County Criminal Justice Center has security provided by the Sheriff. Courthouse security has been designed to give maximum protection to the public with minimum inconvenience. Magnetometers are installed at each courthouse entrance and all persons entering the courthouse, including attorneys, are screened for weapons prior to gaining admittance. This procedure can cause a short delay on busy mornings, especially between 8:00 a.m. and 9:00 a.m., and attorneys are advised to plan to arrive a few minutes in advance to avoid being late for scheduled proceedings.

No person other than authorized security personnel and sworn law enforcement officers are allowed to introduce weapons or firearms into the courthouse.

All persons are requested to cooperate with security personnel. They are under specific instructions for the purpose of providing a safe environment for members of the public who have business with the courts as well as court personnel and employees.

3. Schedule and Vacations

The four criminal division judges operate on a four week interlocking cycle with two weeks of hearings followed by two weeks of trials. The schedules have been prepared in advance and copies are available upon request through Court Administration. Two of the criminal division judges will be on vacation during the first two weeks in July and the other two judges will be on vacation during the last two weeks in July. The criminal division will be closed, except for emergencies, during the last two weeks of December.

4. First Appearances

First appearance judges have authority in most cases to determine matters of pretrial release from arrest until arraignment. A First Appearance Manual has been prepared for use by first appearance judges, attorneys, and court personnel and is published on the court's website at www.flcourts18.org in the "Local Practice Manuals." section.

5. Arraignments

Arraignments are scheduled in each of the four divisions on Tuesday every fourth week at the Criminal Justice Center or the court facility in the John E. Polk Correctional Facility, which is located behind the Criminal Justice Center. Each criminal division judge presides over arraignments in cases assigned to that division. All notices for arraignment are for 8:30 a.m. The notice for arraignment will state the place for the arraignment in out-of-custody cases. Arraignments for defendants who are in custody begin at 8:30 a.m. in the courtroom at the John E. Polk Correctional Facility. Arraignments for out-of-custody cases begin at 1:30 p.m. in Courtroom 1A at the Criminal Justice Center. It is advisable to arrive at least fifteen minutes early for arraignments to avoid delay in gaining entrance to the appropriate court facility.

Resolution of cases before arraignment is encouraged by the court and the State Attorney. The assistant state attorney in charge of arraignments may be reached at 407-665-6411 to discuss pre-arraignment resolution of cases.

6. Docket Sounding

Docket Soundings are scheduled for each of the criminal divisions on Wednesdays every fourth week. All judges begin docket sounding at 1:30 p.m. for defendants who are in-custody. Private counsel cases are called first. A sign-up sheet is used to determine the order in which private counsel cases are called. Defendants are required to attend docket sounding unless excused by written waiver. Defendants who are out of state, who reside a great distance from Seminole County, who are hospitalized, or are incapacitated, may be provisionally excused from docket sounding by defense counsel. The court will give defense counsel a reasonable time to produce the defendants who are provisionally excused prior to issuing a bench warrant for failure to appear.

7. Continuances

Motions for continuance must strictly comply with Rule 2.085(e) or be made orally on the record in open court. First time continuances from docket sounding are usually granted unless it appears that the motion is for the purpose of delay or not made in good faith. Cases which are continued may be reset for a trial week instead of another docket sounding. If that occurs counsel are expected to be available and ready for trial by the trial date.

8. Trial Scheduling Conferences

Cases which are set for trial may be set for scheduling conference. The trial scheduling conference date is the Thursday immediately preceding the first day of the trial period and bonds are returnable at that time. Defendants and counsel must be present at the scheduling conference unless excused by the court. Counsel is not authorized to waive the defendant's presence in writing for the scheduling conference. Counsel should be prepared to discuss the following issues at the scheduling conference:

- a. Availability of witnesses
- b. Order of selection of juries;
- c. Order of trial;
- d. Settlement possibilities;
- e. Evidentiary problems which need the attention of the judge;
- f. Length of trial;
- g. Jury instructions other than standard instructions.

9. Pretrial Motions

Pretrial motions, except motions in limine, must be heard prior to the scheduling conference or, if there is no scheduling conference, prior to jury selection. Motions may be scheduled for hearing through the presiding judge's judicial assistant.

10. Plea Negotiations and Plea Offers

Resolution of criminal cases is encouraged by the court. The judges follow Rule 3.171 and will approve plea agreements when appropriate. All plea agreements are provisionally accepted when made subject to review of presentence investigations, evaluations, score sheets, and other relevant matters. If the court cannot accept a plea as tendered, it may be withdrawn upon motion of counsel and the case will be set for trial.

All plea offers must be delivered to defense counsel and communicated to the defendant prior to the scheduling conference, or the jury selection date if there is no scheduling conference.

All plea agreements must be in writing in the form approved by the court unless the presiding judge specifically authorizes another method. **The approved plea forms, in English, are included at the end of this manual. Spanish plea agreement forms are available in each courtroom.**

11. Pleas in Private Counsel Cases

Private counsel cases which have been resolved may be scheduled for a plea hearing on a motion calendar, at docket sounding, at the scheduling conference, or during a trial week, if approved by the presiding judge. The presiding judge's judicial assistant should be contacted to schedule a plea on a hearing calendar.

12. Sentencing Hearings

Sentencing hearings are set according to the schedule of the presiding judge. All sentencing hearings on a sentencing docket are scheduled for the same time. Private counsel cases are generally taken first. Routine sentencing hearings should take no more than ten to fifteen minutes. Cases which are going to require the appearance of experts or numerous witnesses (except cases involving sentencing enhancements such as habitual offenders) should be scheduled for a specific sentencing date with the presiding judge in open court at the time when the sentencing date is set.

13. Jury Selection

All juries are selected on Monday morning of the trial week. All attorneys and defendants are expected to be present for trial by 8:30 a.m. The presiding judge will normally review the docket for last minute adjustments at that time.

Defense counsel shall make arrangements to provide civilian clothing to defendants who are in custody prior to jury selection so that dressing for trial will not cause delay.

Normally, fourteen jurors will be initially called to the jury box for voir dire. Attorneys are expected to conduct voir dire in a professional manner without wasting time. The presiding judge will not tolerate attempts to curry favor with jurors. Questions which do not touch upon a juror's qualifications to serve or the issues in the case will not be allowed. Questions should be designed to solicit an answer that will assist in deciding if the juror should be challenged either peremptorily or for cause and not for reasons of idle curiosity. For instance, spare time activities, reading habits, and bumper sticker preferences are not normally a valid subject of inquiry. Direct questions such as "Do you belong to the N.R.A.?" instead of "Do you have any bumper stickers on your automobile?" get to the issue at hand instead of soliciting an answer which may have nothing to do with the case.

Counsel are prohibited from suggesting to a juror that voir dire can be conducted individually at the bench without the express permission of the Court.

Jurors will be excused from the courtroom before the jury selection begins. The presiding judge will alternate between counsel asking them to accept or challenge jurors. The State Attorney will be requested to accept or challenge the first juror. This procedure will be continued until a jury is selected. Back strikes are allowed until the jury is sworn. Most juries are sworn immediately after selection to avoid last minute back strikes and delays.

Responsibility for preparation of jury instructions is upon the party requesting the instruction unless the presiding judge orders otherwise. Jury instructions shall be in 12 point type with Times New Roman font and follow the format of the Standard Jury Instructions in Criminal Cases.

14. Conduct of Counsel and Defendants Not Represented By Counsel

Attorneys and defendants not represented by attorneys are expected to comply with the standards set forth in the Administrative Order governing Courtroom Decorum and Procedure, a copy of which is included at the end of this manual.

15. Victims of Crime

Victims of crime or their lawful representatives, including the next of kin of homicide victims, are entitled to the right to be informed, to be present, and to be heard *when relevant* at all crucial stages of criminal proceedings to the extent that these rights do not interfere with the constitutional rights of the accused. Art. I, Sec. 16(b), Fla. Const.

The State Attorney is the officer who is responsible by law to answer questions of procedure and to give victims assistance. Judges are not authorized to speak with victims about cases pending before them. The State Attorney is responsible to advise victims not to communicate with individual judges for any reason except through a victim impact statement or when recognized in open court.

The State Attorney is required to consider the views of victims in matters concerning pretrial release, plea agreements, pretrial diversion, and sentencing options. However, it is the sole responsibility of the State Attorney to direct the prosecution of a case. Judges will not review these decisions for the purpose of interfering with the State Attorney's duties.

Most victim participation in actual court proceedings focuses on the sentencing process. Victims have the right to submit to the court an impact statement authorized by F.S. 921.143. The judges prefer impact statements to be in writing under oath and submitted to the presiding judge by

the State Attorney at least three business days prior to sentencing. Due to time limitations, live testimony will not be permitted at sentencing unless the State Attorney files a motion requesting a specific sentencing date. The motion must show the amount of time estimated for the hearing and specifically state the reason why a written impact statement is insufficient. The motion must be scheduled for hearing prior to sentencing. Victims who make oral impact statements shall testify under oath in open court.

The State Attorney has the responsibility to assist in the preparation of the impact statement. The impact statement must relate solely to the facts of the case and be designed to assist the court in determining issues before it at sentencing. The statement should be direct and concise.

Examples of relevant information include the following:

- a. Extent of injuries.
- b. Medical treatment plan (provider should submit estimate of future costs).
- c. Cost of medical treatment (medical bills should be attached).
- d. Social or psychological harm.
- e. Financial loss and loss of earnings (must be documented).
- f. Special conditions of probation requested such as provision for no contact with the victim.

Information which is not relevant in an impact statement and which shall not be submitted in writing or orally includes:

- a. Statements designed to chastise or humiliate the defendant.
- b. Statements which are for the purpose of advancing a political, social, or religious belief or cause.
- c. Statements which are more appropriate for a press conference or support group.
- d. Statements which contain speculation about future events such as pardon or parole.
- e. Statements which recommend or suggest a sentence.

The State Attorney must review all written victim impact statements prior to submitting them to the presiding judge. Victim impact statements which contain irrelevant, impermissible, inappropriate, or inflammatory matters may not be considered by the presiding judge.¹

Victim impact statements shall not contain statements or recommendations which contradict the terms of a plea agreement approved by the State Attorney. Any objections by a victim to a proposed plea agreement must be made in open court at the plea hearing prior to the acceptance of the plea. Objections which express disagreement with the State Attorney's legal or evidentiary analysis in a case or which express general dissatisfaction with any aspect of Florida law will not be entertained by the presiding judge.

Victim impact statements are not relevant to any sentencing issue and shall not be submitted when the plea agreement is for only a straight jail or prison sentence without supervision to follow, or in cases where the judge has no sentencing discretion.

Photographs, medical charts, statements of third parties, and oversized exhibits shall not be submitted in an impact statement without prior authorization from the presiding judge upon motion filed by the State Attorney and noticed for hearing prior to submission of the impact statement. All exhibits (medical bills, statement of lost earnings, etc.) shall be on 8 ½" x 11" plain white paper or taped to such paper and shall be numerically marked for reference.

16. Restitution

It is the responsibility of the State Attorney to provide the presiding judge with evidence establishing the amount of restitution due to a victim. This evidence need not be admissible

as a business record [F.S. 90.803(6)], but shall include (1) copies of medical or repair bills, (2) employer's statement of lost earnings, (3) appraisal value of lost or destroyed property, and (4) owner's affidavit of value with facts which would establish the owner's ability to establish value. The evidence shall be submitted to the Department of Corrections, Probation & Parole Services within fifteen days after a presentence investigation report is ordered. If no presentence investigation is ordered, the evidence shall be submitted to the presiding judge at the sentencing hearing. Copies of all bills, statements, or affidavits used to establish the amount of restitution shall be provided to counsel for the defendant at the time of sentencing or prior thereto. Defendants who disagree with the documents submitted to establish the amount of restitution or the defendant's ability to pay restitution may request a restitution hearing.

Restitution hearings are scheduled at a time other than during a regular sentencing docket and are evidentiary hearings. The State Attorney shall be responsible to produce witnesses, including custodians of records, at the restitution hearing unless the parties stipulate otherwise in writing, before a court reporter or on an electronic recording device. The State has the burden to show from the record that the trial judge did not rely upon impermissible considerations in passing sentencing. *Epprech v. State*, 488 So.2d 129 (Fla. 3d DCA 1986); *Reese v. State*, 639 So.2d 1067 (Fla. 4th DCA 1994).

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT OF
FLORIDA, SEMINOLE COUNTY

STATE OF FLORIDA

vs.

_____/_____
Defendant

CASE NO. _____

PLEA AGREEMENT
(Rule 3.172)

The undersigned defendant withdraws the previously entered plea(s) of not guilty and tenders a plea of () guilty, () no contest as follows:

Case Number	Offense	Maximum Sentence	Minimum Mandatory Sentence
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If my plea is guilty, I hereby acknowledge that I am in fact guilty of the foregoing offenses. When asked by the Judge, I will provide a factual basis to support my plea. If my plea is no contest, I believe such plea is in my best interest and recognize that the Judge will find me guilty after being provided a factual basis.

The State of Florida and I have agreed upon the following sentence to be imposed as a condition of this plea:

Case Number	Offense	Sentence
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I understand that if probation is a part of my sentence that the court may impose conditions of probation authorized by law, including restitution and public service and, unless conditions are specifically attached hereto, those conditions are by this agreement left to the discretion of the court. I further understand that statutory costs may be imposed as a part of my sentence unless those costs are waived by the court.

I have the right to plead not guilty and to be tried by a jury with the assistance of a lawyer, the right to compel attendance of witnesses on my behalf, the right to confront and cross examine witnesses against me, the right to present defenses to the jury, and the right to take the witness stand and testify on my own behalf. I also have the right not to take the witness stand and cannot be compelled to incriminate myself. I give up these rights by entering this plea.

I understand that if I enter a plea without reserving the right to appeal, I will give up my right to appeal all matters relating to the judgment, including the issue of guilt or innocence except for the limited review available by collateral attack. I also give up my right to appellate review on any pretrial rulings made by the court unless such right is specifically reserved in this agreement.

I understand that I may be asked questions by the Judge under oath about this plea and that my answers, if untruthful, may be used against me later in a prosecution for perjury.

I enter this plea freely and voluntarily. No person has forced, threatened or coerced me into entering this plea.

I am satisfied with the representation my lawyer has given me and I have fully discussed my case, including any defenses I may have, and the contents of this agreement.

I have discussed the physical evidence that may be available in my case with my lawyer, including physical evidence that may tend to prove I did not commit the crime(s) charged, such as DNA evidence. I am satisfied there is no such evidence in my case or I hereby waive any claim of innocence that may be established by the physical evidence, including DNA testing.

I am relying upon no promises or assurances except as contained in this agreement.

I understand that if I enter a plea to a felony offense or a sex offense I must register as a convicted felon or as a sex offender as required by law. If I am pleading to a sex offense, I have been advised by my lawyer that my liberty may be restricted, including but not limited to, where I may live, where I may work and with whom I may have contact.

I understand that if I am pleading guilty or no contest to a sexually violent offense or a sexually motivated offense, or if I have previously been convicted of such an offense, I may be subject to involuntary civil commitment as a sexually violent predator upon completion of any prison or jail sentence.

I understand that if I am not a United States Citizen, entry of this plea shall subject me to deportation by the United States Immigration and Customs Enforcement.

I understand that if the offense to which I am entering a plea is one for which automatic mandatory driver's license suspension or revocation is required by law to be imposed, either by the court or by a separate agency, my plea will provide the basis for the suspension or revocation of my driver's license.

I do not suffer from any physical or mental disabilities to the degree that I am incapable of understanding this agreement, the nature of the proceeding against me, or assisting my lawyer in my behalf. I am not under the influence of alcohol or any drug at this time.

I hereby give up my right to a speedy trial.

If I am not in custody, I acknowledge that part of the plea agreement in this case includes my continued release pending sentencing on bond, pretrial release or release on recognizance. I understand that this portion of the plea agreement is conditioned upon the following requirements:

- (1) If a presentence investigation has been ordered, I must appear at the Department of Corrections office as directed by the court and schedule a presentence investigation not later than the first business day following the entry of my plea.
- (2) I must obey the order of the court requiring me to undergo drug or alcohol screening or for other evaluation if such an order has been made in my case.
- (3) I must appear on time for all appointments with the assigned probation officer and not be under the influence of any illegal drugs or alcohol.
- (4) I must appear in court on time for sentencing and not be under the influence of any

illegal drugs or alcohol.

I realize that this agreement will be provisionally accepted upon entry of my plea and is subject to being accepted or rejected by the Judge at any time prior to the sentence being imposed, and if it is rejected for any reason other than for a breach of this agreement, I may withdraw my plea and go to trial.

I acknowledge receipt of a copy of the notice for my sentencing date. I understand and agree that if I fail to comply with any of the conditions set forth above I will have breached my plea agreement. In that event, I will not be allowed to withdraw my plea and the Judge may sentence me to any sentence authorized by law for the offense(s) to which I have pled.

Assistant State Attorney

Defendant
Date of Birth: _____ .Age: _____

CERTIFICATE OF ASSISTANT STATE ATTORNEY

I hereby certify that I have disclosed items of physical evidence which may be favorable to the defendant, including any possible DNA evidence, by list or description or this information will be disclosed at the time of entry of the plea.

Assistant State Attorney
Fla. Bar No. _____

CERTIFICATE OF DEFENSE ATTORNEY

I hereby certify that I have fully discussed this case and this plea agreement with the defendant including the nature of the charges, their elements, the evidence of which I am aware, any possible defenses, the maximum and minimum penalties which may be imposed, the probable guideline range and the defendant's right to appeal. I am not aware of any DNA testing that may exonerate the defendant.

Counsel for Defendant
Fla. Bar No. _____

SWORN TO, SIGNED AND FILED IN OPEN COURT, IN MY PRESENCE AND PROVISIONALLY ACCEPTED BY ME THIS ____ DAY OF _____ 20____.

CIRCUIT JUDGE

Revised 05.15.2014

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT IN AND FOR
SEMINOLE COUNTY, FLORIDA

STATE OF FLORIDA

v.

CASE NO.

_____,
Defendant.

ADMISSION OF VIOLATION OF PROBATION/COMMUNITY CONTROL

I hereby withdraw my not guilty, and admit violating condition(s) of my probation/community control order(s): _____. I am on probation or community control for the following offenses: _____ which carry the total maximum penalty of _____.

By entering this admission, I give up the right to a trial without a jury, to see and hear the witnesses testify, to have my lawyer question the witnesses, to subpoena witnesses on my behalf, to testify or remain silent, except I can be called to testify about any non-criminal violations, to require the prosecutor to prove my guilt by admissible evidence to the satisfaction of the judge and my right to appeal any matters except the legality of my sentence and the jurisdiction of the court. My lawyer has explained that entering this plea will severely restrict my right of appeal to matters involving the authority of the Court to proceed and the legality of any sentence imposed.

I understand that if the court accepts my admission(s) of violating my probation or community control there will be no trial and the judge can put me back on supervision with the same or new conditions or my supervision can be revoked and I can be sentenced up to the maximum sentence authorized by law.

I have read the violation affidavit or it has been explained to me by my lawyer and I understand the violation(s) to which I am admitting. My lawyer has explained any defenses I may have to the violation(s) and I give up my right to present any defenses.

I understand that if I am on probation or community control for a felony, entering this plea will increase the points on my score sheet by a minimum of six points and I may be required to serve a prison sanction in the Department of Corrections.

No one has threatened or coerced me to enter this admission. No one, including the prosecutor, my lawyer or the judge has promised me any particular sentence except as set forth below or stated in open court:

The prosecutor, my lawyer, and I have agreed as follows: _____

The judge has agreed as follows: _____

I understand that if I am allowed to remain out of custody prior to sentencing, this plea is conditioned is conditioned upon the following requirements:

1. I must appear at the Department of Corrections office not later than 2:00 P.M. on the first

business day following the entry of this plea if a presentence investigation has been ordered in my case. I must return to that office as instructed until my presentence investigation is completed.

2. I must obey the order of the court requiring me to undergo drug or alcohol evaluation or for other evaluation if it has been ordered in my case.
3. I must appear on time for all appointments with the assigned probation officer and any evaluator and not be under the influence of any drugs or alcohol.
4. I must appear on time for sentencing and not be under the influence of any drugs or alcohol.
5. I must remain under the supervision of the Department of Corrections until my sentencing date and obey all lawful orders given to me by my supervising officer.

I realize this agreement is subject to final acceptance or rejection by the judge at the time of sentencing and if it is rejected for any reason, other than for a breach of this agreement, I may withdraw my plea and have my violation(s) set for trial without a jury. I acknowledge receipt of a copy of the notice of my sentencing date. I understand and agree that if I fail to comply with any of the five (5) conditions set forth above I will have breached my plea agreement. In that event, I will not be allowed to withdraw my plea, the sentencing guidelines will not apply and the judge may sentence me to any sentence up to the maximum sentence authorized by law for the violation(s) to which I have admitted.

Defendant
Date of Birth _____

Sworn to, signed and filed in open court, in my presence and accepted by me this _____ day of _____, 20____ .

Circuit Judge

Certificate of Defense Attorney

I certify that I have fully discussed this case and this plea agreement with the defendant including the nature of the violation(s), the defendant's right to a hearing, the evidence against the defendant of which I am aware, and the maximum penalty which may be imposed for the violation(s), the applicable sentencing guidelines and the right to appeal. No promises have been made by me except as are set forth in this agreement or on the record in open court. I believe the defendant fully understands the nature and consequences of this plea.

Counsel for the Defendant

Certificate of Prosecutor

I agree to the condition(s) admitted and the sentence set forth above.

Prosecuting Attorney

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

IN AND FOR SEMINOLE COUNTY, FLORIDA.

ADMINISTRATIVE ORDER NO.:

**09-06
SUPERSEDES 92-116**

IN RE: COURTROOM DECORUM AND PROCEDURE

WHEREAS, some practitioners are unfamiliar with the traditions of the Courts of the Eighteenth Judicial Circuit, and

WHEREAS, certain basic principles of conduct and decorum enhance the dignity of the court, and

WHEREAS, the following provisions will improve the efficiency of court proceedings, it is therefore, ORDERED:

1. When appearing in any Court of the Eighteenth Judicial Circuit, unless excused by the presiding judge, all counsel (including, where the context applies, all persons at counsel table) shall abide by the following:
 - a) Stand as Court is opened, recessed, or adjourned, unless directed to remain seated.
 - b) Stand when the jury enters or retires from the courtroom.
 - c) Stand when addressing, or being addressed by, the Court.
 - d) Counsel shall not suggest to the jury that individual voir dire may be requested without first obtaining permission of the court.
 - e) Stand at the lectern while examining any witness; except that counsel may approach the Clerk's desk or the witness for purposes of handling or tendering exhibits. It is not necessary to request permission to approach a witness unless the witness has been declared adverse or hostile.
 - f) Stand at the lectern while making opening statements or closing arguments except to show evidence to the jury.
 - g) Address all remarks to the Court and not to opposing counsel.
 - h) Avoid disparaging personal remarks or acrimony toward opposing counsel. Do not participate in, or accommodate any ill feeling between the litigants or witnesses, but remain wholly detached therefrom.
 - i) Refer to all persons, including witnesses, other counsel and the parties by their surnames and not by their first or given names.
 - j) Only one attorney for each party shall examine, or cross examine each witness. The attorney stating objections, if any, during direct examination, shall be the attorney recognized for cross examination.
 - k) Counsel should request permission before approaching the bench.
 - l) Any paper or exhibit should first be handed to opposing counsel and then to the Clerk to be marked for identification before it is tendered to a witness for his or her examination. Any exhibit offered in evidence should, at the time of such offer, be handed to opposing counsel. Counsel should state only the legal grounds when making an objection and should withhold all further

- comment or argument unless elaboration is requested by the Court.
- n) Counsel shall not repeat or echo the answer given by the witness during questioning.
 - o) Offers of, or requests for, a stipulation should be made privately, not within the hearing of the jury.
 - p) In opening statements and in arguments to the jury, counsel shall not express personal knowledge or opinion concerning any matter in issue; shall not read or purport to read from deposition or trial transcripts not in evidence, and shall not suggest to the jury, directly or indirectly, that it may or should request transcripts or the reading of any testimony by the reporter.
 - q) Counsel shall inform all persons at counsel table that gestures, facial expressions, audible comments, or the like, as manifestations of approval or disapproval, during the testimony of witnesses, or at any other time, are absolutely prohibited, and may be the subject of contempt of court or other sanctions.
 - r) Smoking, eating, and food are prohibited in the courtroom at any time. Counsel may have water available if the Court gives permission.
 - s) Small children who are unable to behave are not admitted to the courtroom unless absolutely required for the trial or hearing. Children under the age of 12 years are presumed to be too young to sit during court proceedings.
2. In all criminal proceedings unless excused by the presiding judge, all counsel and defendants shall abide by the following in addition to the requirements of Paragraph 1(a-s) above:
- a) The prosecuting attorney shall present to the Court at the beginning of each jury trial a full and complete set of jury instructions and verdict forms. The jury instructions may be in electronic format if allowed by the Court. The jury instructions shall include all Category I lesser-included offenses. Defense counsel shall present to the Court at the beginning of each jury trial, any special instructions and Category II lesser-included offenses that will be requested and proposed verdict forms containing all lesser-included offenses.
 - b) All motions to suppress evidence shall be filed and heard prior to the trial week. Except for good cause shown, the Court will summarily deny any motion that is not timely filed pursuant to Fla. R. Crim. P. 3.060 and 3.190(h)(4).
 - c) Motions should contain specific reference to applicable legal authority that is relied upon by the movant in support of the motion. Rule 3.190(a), Fla. R. Crim. P. Copies of applicable statutes or controlling case law may be attached to the motion or a separate memorandum may be submitted. Pertinent portions of authorities may be underlined or highlighted.
 - d) Cases which will resolve themselves by way of plea should be promptly scheduled for hearing unless the plea is to take place at docket sounding or a pretrial or scheduling conference. It is the primary responsibility of counsel for the defense to see that a specific hearing time is scheduled for the plea.
 - e) Plea agreements should be used in all negotiated felony pleas. These forms should be fully completed and signed by all parties prior to the plea hearing.

- f) Any disputes as to "score sheets" for sentencing shall be resolved prior to the sentencing hearing. Objections to a score sheet should be communicated to the prosecuting attorney prior to the sentencing hearing.
3. The requirements stated in this rule are minimal, not all inclusive. They are intended to emphasize and supplement, not supplant or limit, the ethical obligations of counsel under the Code of Professional Responsibility or the time honored customs of experienced trial counsel. Individual judges of the Court may, in any case, or generally, announce and enforce additional prohibitions or requirements; or may excuse compliance with any one or more of the provisions of this rule.
- DONE and ORDERED this 21st day of January, 2009.

Clayton D. Simmons
CLAYTON D. SIMMONS
CHIEF JUDGE

DISTRIBUTION:

All Circuit and County Judges (Brevard and Seminole Counties)
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IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT IN AND FOR

SEMINOLE COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO.:

15-42-S

SUPERSEDES 14-32-S

IN RE: CRIMINAL BAIL SCHEDULE FOR SEMINOLE COUNTY

Bail is an essential part of the criminal justice system, and a bail schedule is hereby promulgated so that law enforcement officers and booking officers can set bonds on arrests prior to first appearance. This schedule is not binding upon first appearance judges, who have the responsibility to review arrests at first appearance and set conditions of release pursuant to Rule 3.131 of the Florida Rules of Criminal Procedure and section 903.046 Florida Statutes.

Within this bail schedule, special provisions setting bail for specific offenses control over general provisions that may also be applicable to the specific offense.

Under the provisions of Florida Statute 903.02(4), a separate and specific bail amount must be set for each offense charged.

Bail will have a condition in every case that the defendant will have no direct or indirect contact with the alleged victim, if there is one in the case; and that the defendant shall remain from criminal activity of any kind.

IT IS ADJUDGED:

I. OFFENSES FOR WHICH NO BAIL SHALL BE SET UNTIL THE INITIAL APPEARANCE PROCEEDING BEFORE A JUDGE

1. Capital Felony
2. Life Felony
3. First Degree Felony Punishable by Life
4. First Degree Felony (Violent)
5. Second Degree Felony (Violent-with at least one prior violent felony conviction)
6. Attempt/Solicitation/Conspiracy to Commit First Degree Murder
7. Persons who are arrested for a felony while released on bail for a separate felony
8. Armed Robbery (Firearm or Dangerous Weapon)

9. Armed Burglary (Firearm or Dangerous Weapon)
10. Carjacking
11. Armed Home Invasion (Firearm or Dangerous Weapon)
12. Kidnapping
13. Drug Trafficking and Conspiracy to traffic in drugs
14. Sale or Delivery of a Controlled Substance (3rd Offense or more)
15. Manufacture of Methamphetamine
16. RICO Act Violations (F.S. 895.03)
17. Escape from DOC or Rehabilitation Reentry Program or other correctional facility
18. Attempt/Solicitation/Conspiracy to Commit Second Degree Murder
19. Aggravated Stalking
20. Domestic Violence (Any Felony or misdemeanor offense defined in F.S. 741.28(1))
21. Violations of Domestic Violence Injunctions, Repeat Violence Injunctions, Dating Violence Injunctions or Sexual Violence Injunctions, regardless of the nature of the alleged violation.
22. Violation of any Condition of Release where the underlying offense is one of Domestic Violence
23. Burglary with an Assault or Battery
24. Violations of Felony Probation or Community Control unless
 - a. There is a violation of probation warrant, which, on its face, provides that the probationer does not meet the qualifications for a “danger to public” hearing as defined in Florida Statute 948.06(4) (as amended by the “Jessica Lundsford Act”), and
 - b. Such violation of probation warrant sets a bond amount.
25. Any criminal offense if the defendant is currently on felony probation or community control
26. Persons who are arrested for a felony who, because of their prior criminal record, qualify for sentencing on the arrested felony as a “Habitual Violent Felony

Offender”; “Three-time Violent Felony Offender”; “Violent Career Criminal” or “Prison Release Reoffender”.

27. Persons who are arrested for Possession of a Firearm by a Convicted Felon;
28. Any felony involving the use of threatened use of a firearm.
29. DUI Manslaughter
30. DUI 4th Offense or More.

NOTE TO INITIAL APPEARANCE JUDGES: “Unless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime shall be entitled to pretrial release on reasonable conditions. If no conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained.” Fla. R. Crim. P.

II. ARRESTEES SUBJECT TO THE JESSICA LUNSFORD ACT

1. The Jessica Lunsford Act requires a judge to make a finding that a probationer or an offender on community control who is arrested for violating his/her probation or community control is not a “danger to public” prior to his/her release with or without bail where the probationer or offender in community control is:
 - a. A registered sexual predator, or
 - b. A registered sexual offender, or
 - c. Under supervision for any criminal offense prescribed in Chapter 794 (Sexual Battery); Section 800.04(4) (Lewd or Lascivious Battery); Section 800.04(5) (Lewd or Lascivious Molestation); Section 800.04(6) (Lewd or Lascivious Conduct); Section 827.01 (Sexual Performance by a Child), or Section 847.0145 (Selling or Buying of Minors), or
 - d. Under supervision for a criminal offense for which he/she would meet the registration criteria in Section 775.21, Section 943.0435, or Section 944.607 but for the effective date of those sections.
2. A probationer who is subject to the provisions of the “Jessica Lunsford Act” shall not be released on bail unless there is a judicial finding that he or she is not a danger to the public. If there is no such finding on the face of the warrant, the offender shall be held without bail, even if the warrant provides a specific bail amount.
3. If the judge who issued the warrant expressly states that the offender is not a danger to the public, bail shall be set in the amount provided for in the warrant.
4. If the warrant issuing judge does not include a finding that the offender is not a danger to the public and the offender is thereby held without bail, the First Appearance Judge may, in their discretion, hold the hearing and make findings as

provided in Fla. Stat. §948.06(4). If the First Appearance Judge does not hold this hearing, the court shall set the case for a status hearing in the assigned criminal division within 72 hours of the First Appearance hearing.

III. SPECIFIC OFFENSES

OFFENSE	RESIDENCY			
	LOCAL	FLORIDA	OUT-OF-STATE	OUT-OF-COUNTRY
1. Third Degree Murder	\$15,000	\$20,000	\$25,000	\$35,000
2. Manslaughter	\$15,000	\$20,000	\$25,000	\$35,000
3. Vehicular Homicide	\$15,000	\$20,000	\$25,000	\$35,000
4. Leaving Scene of Accident Involving Death/Personal Injury	\$15,000	\$20,000	\$25,000	\$35,000
5. Burglary of an Occupied Dwelling	\$15,000	\$20,000	\$25,000	\$35,000
6. All other non-armed Burglaries	\$5,000	\$8,000	\$10,000	\$15,000
7. Sexual Offenses – First Degree Felony	\$35,000	\$40,000	\$50,000	\$60,000
8. Sexual Offenses – Second Degree Felony	\$15,000	\$20,000	\$25,000	\$35,000
9. Sexual Offenses – Third Degree Felony	\$5,000	\$8,000	\$10,000	\$15,000
10. DUI Involving Personal Injury	\$15,000	\$20,000	\$25,000	\$35,000
11. DUI – Third Offense	\$5,000	\$8,000	\$10,000	\$15,000
12. Aggravated Fleeing or Attempting to Elude	\$15,000	\$20,000	\$25,000	\$35,000
13. Fleeing or Attempting to Elude	\$5,000	\$8,000	\$10,000	\$15,000
14. Sale or Delivery of a Controlled Substance (Second Offense)	\$35,000	\$40,000	\$50,000	\$60,000
15. Sale or Delivery of a Controlled Substance (First Offense)	\$15,000	\$20,000	\$25,000	\$35,000
16. Possession of a Listed Chemical	\$25,000	\$30,000	\$35,000	\$40,000
17. Computer Crimes Involving Child Pornography or Soliciting Sexual Conduct by a Child	\$35,000	\$40,000	\$50,000	\$60,000
18. Failure to Register as a Sex Offender	\$15,000	\$20,000	\$25,000	\$35,000

IV. NON-SPECIFICALLY ENUMERATED FELONIES

OFFENSE	RESIDENCY			
	LOCAL	FLORIDA	OUT-OF-STATE	OUT-OF-COUNTRY
1. First Degree Felony (Non-Violent)	\$15,000	\$20,000	\$25,000	\$35,000
2. Second Degree Felony (Violent)	\$15,000	\$20,000	\$25,000	\$35,000
3. Second Degree Felony (Non-Violent)	\$5,000	\$8,000	\$10,000	\$15,000
4. Third Degree Felony (Violent—with at least one prior violent felony conviction)	\$15,000	\$20,000	\$25,000	\$35,000
5. Third Degree Felony (Violent)	\$5,000	\$8,000	\$10,000	\$15,000
6. Third Degree Felony (Non-Violent)	\$2,000	\$3,000	\$5,000	\$8,000

V. WARRANTS

Bond for persons arrested on a violation of felony probation shall be set as provided for in the warrant itself, if and only if, the warrant provides that the probationer does not meet the qualifications of a “danger to public” hearing as defined in Florida Statute 948.06(4) (as amended by the “Jessica Lundsford Act”); otherwise, such person shall be held without bond pending the initial appearance before a judge.

Bond for persons arrested on a violation of misdemeanor probation warrant, a failure to appear warrant, or an arrest warrant shall be set as provided for in the warrant itself. If the warrant is silent as to a bond amount, the bail shall be set as otherwise provided in this Administrative Order.

VI. MISDEMEANORS

Rule 3.125(b) provides:

1. “If a person is arrested for an offense declared to be a misdemeanor of the first or second degree or for violation of a municipal or county ordinance triable in the county, and demand to be taken before a magistrate is not made, notice to appear may be issued by the arresting officer unless:
 - a. The accused fails or refuses to sufficiently identify himself or herself or supply the required information;
 - b. The accused refuses to sign the notice to appear;
 - c. The officer has reason to believe that the continued liberty of the accused constitutes an unreasonable risk of bodily injury to the accused or others;
 - d. The accused has no ties with the jurisdiction reasonably sufficient to assure the accused’s appearance or there is substantial risk that the accused will refuse to respond to the notice;

- e. The officer has any suspicion that the accused may be wanted in any jurisdiction; or
 - f. It appears that the accused has previously failed to respond to a notice or a summons or has violated the conditions of any pretrial release program.
2. If a defendant is not released on a “Notice to Appear”, pursuant to Rule 3.125, bond shall be set, pending first appearance, as follows:

OFFENSE	BAIL
DUI (First Offense)	\$500
DUI (Second Offense)	\$1,000
Criminal Traffic Offenses	\$500
First Degree Misdemeanors	\$500
Second Degree Misdemeanor	\$250
Violations of conditions of release where the underlying offense is not one of Domestic Violence	\$1,000

3. As to all individuals arrested for the offense of DUI, any release must also comply with the criteria set forth in Fla. Stat. §316.193(9).

VII. DEFINITIONS

The following definitions apply to this bail schedule:

- 1. Local Resident – A person qualifies as a local resident if his/her principal place of domicile is located in Seminole County, Florida and has been so for a period of three (3) months.
- 2. Florida Resident – A person qualifies as a Florida resident if his/her principal place of domicile is located in the State of Florida and has been so for a period of three (3) months.
- 3. Out of State Resident – A person qualifies as an out of state resident if his/her principal place of domicile is located outside the State of Florida but in another state within the United States and he/she is a United States citizen or he/she is a foreign national and his/her principal place of domicile is in another state within the United States and has been so for a period of six (6) months and he/she is in possession of such documents as permit a current domicile within the United States or such permit is otherwise corroborated.
- 4. Out of County Resident – A person qualifies as an out of country resident if he/she is not domiciled in the United States or is not a United States citizen and

his/her principal place of domicile is in the United States but has been so for less than six (6) months whether permitted or not.

5. Violent Offense – An offense qualifies a violent offense if it involves physical harm or bodily injury or threat of same.
6. Non-Violent Offense – An offense qualifies as a non – violent offense if it involves no physical harm or bodily injury or threat of same.

VIII. SPECIAL CONDITIONS OF RELEASE – DUTY OF RELEASE OFFICER

1. General Conditions for Pretrial Release Applicable to All Cases
 - a. The defendant shall refrain from criminal activity of any kind.
 - b. The defendant shall refrain from any contact of any type with the victim(s), except through pretrial discovery pursuant to Florida Rules of Criminal Procedure. F.S. 903.47
 - c. The defendant shall comply with all other conditions of pretrial release.
2. Persons Arrested for Domestic Violence, Repeat, Sexual, and Dating Violence; Order of No Contact

Any person who is arrested in Seminole County for an offense of domestic violence, repeat violence, sexual violence or dating violence shall be furnished an Order of No Contact (Attachment 1) stating the conditions of pretrial release. Persons arrested for any of the above noted offenses shall not be released until they have been instructed on the special conditions set forth in the Order of No Contact and have signed a court approved written notice acknowledging instruction on the special conditions of pretrial release.

3. Persons Arrested for Sexual Offenses or Child Abuse

Any person who is arrested for a sexual offense or for child abuse shall, as an additional condition of release, be prohibited from having direct or indirect contact with victim(s), victim(s)' family, or residence(s) of the victim(s). Persons arrested who have committed a sexual offense or child abuse shall not be released until they have been instructed of these special conditions by the pretrial release officer and have signed a written notice approved by the court.

4. Persons on Probation- Department of Corrections:

Any person who is arrested in Seminole County and who is on probation with supervision by the Department of Corrections, Probation and Parole Services, shall, as an additional condition of release, report to their Probation Officer with the Department of Corrections, Probation and Parole services before 4:00 p.m. on the first business day following release. An offender is considered to be on probation if he is on parole or under any other type of supervision status by the Department of Corrections.

5. Persons on Probation – Seminole County Probation Department

Any person who is arrested in Seminole County and who is on probation with supervision by the Seminole County Probation Department, shall, as an additional condition of release, report to Seminole County Probation Department, Sanford, Florida, before 4:00 p.m. on the first business day following release.

IX. EFFECT OF FILING NOTICE OF NO INFORMATION OR NOLLE PROSEQUI

If a person arrested for any offense(s) occurring within Seminole County is admitted to bail and the State Attorney files a notice of No Information or Nolle Prosequi with respect to all charges arising out of a single arrest, the Sheriff shall without further order of the Court, release the person from custody as to the charges named. As to the named charges and person, all bail undertaking, not defaulted, shall be canceled, all sureties shall be exonerated, and all release on recognizance obligations shall be discharged without further order of the Court. A bench warrant or capias which may be outstanding and is yet unserved upon a named individual for a specified charge shall also be canceled upon the filing of a No Information or Nolle Prosequi without further order of the Court.

X. COMPLIANCE WITH THIS ADMINISTRATIVE ORDER

Upon receipt of the person arrested the booking officer shall review the arrest form to ensure that the arresting officer has properly set the initial bond according to this administrative order. The booking officer is authorized to make changes to the bond amount reflected on the arrest form to properly comply with this order but in considering changes the booking officer shall consider any information in the arrest form that the arresting officer believed called for a higher bond and shall defer to that judgment. However, any bond set shall not exceed the amount of bail set forth in the bond schedule.

DONE AND ORDERED this 12th day of October, 2015.

JOHN D. GALLUZZO

JOHN D. GALLUZZO

CHIEF JUDGE

Distribution to:

Circuit and County Court Judges (Seminole County)
Clerk of the Court (Seminole County)
Court Administration (Seminole and Brevard Counties)

State Attorney (Seminole County)
Public Defender (Seminole County)
Sheriff (Seminole County)
Bar Association (Seminole County)
Law Library (Seminole County)
Seminole County Jail Administrator
Seminole County Pretrial Release Officer
Seminole County Police Departments

ATTACHMENT 1

**ORDER OF NO CONTACT IN CASES OF DOMESTIC VIOLENCE,
REPEAT VIOLENCE, SEXUAL VIOLENCE, AND DATING VIOLENCE**

Pursuant to Florida Statute 903.047, all persons arrested for domestic violence, repeat violence, sexual violence, or dating violence shall as conditions of pretrial release abide by the following conditions:

- (a) Refrain from criminal activity of any kind.
- (b) Refrain from any contact of any type with the victim except through pretrial discovery pursuant to the Florida Rules of Criminal Procedure.
The term “no contact” prohibits all oral or written communication either in person, telephonically, electronically, or by any other means either directly or indirectly through a third party with the victim or any other person named in the order.
- (c) Refrain from having any physical or violent contact with the victim or other named person or his or her property.
- (d) Refrain from being within 500 feet of the victim’s or other named person’s residence even if the victim or other named person shared the residence with the arrestee at the time of arrest.
- (e) Refrain from being within 500 feet of the victim’s or other named person’s vehicle, place of employment, or other specified location frequented regularly by such person.

THIS ORDER OF NO CONTACT IS EFFECTIVE IMMEDIATELY AND IS ENFORCEABLE FOR THE DURATION OF PRETRIAL RELEASE OR UNTIL MODIFIED BY THE COURT.

The undersigned release officer acknowledges instructing the arrestee on the above conditions and furnishing the arrestee with a copy of the Order of No Contact.

The undersigned arrestee acknowledges being instructed on the conditions of pretrial release contained in the Order of No Contact and being furnished with a copy of the Order of No Contact.

This Order of No Contact applies to the following named persons and addresses:

Release Officer

Defendant/Arrestee

Date

Date

