

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

ADMINISTRATIVE ORDER NO. 4.402 - 9/08*

IN RE: PROCEDURES FOR WARRANTLESS
ARRESTS FOR VIOLATION OF
PROBATION AND COMMUNITY CONTROL

The establishment of procedures for arrests without warrants for violation of probation and violation of community control would promote the efficient and uniform administration of justice. Florida Statute section 948.06(1) (2007), authorizes any law enforcement officer to arrest, without warrant, a probationer or offender in community control who has violated his or her probation or community control in a material respect, and forthwith return him or her to the court granting such probation or community control. Florida Rule of Criminal Procedure 3.130(a) requires a first appearance within 24 hours of arrest;

NOW, THEREFORE, pursuant to the authority conferred by Florida Rule of Judicial Administration 2.215, it is **ORDERED** as follows:

A. BOOKING PROCEDURES

1. The sheriff shall notify the Clerk of Court and the Probation Office immediately upon a probationer from this County being booked into the Palm Beach County Detention Center.
2. The Sheriff is directed to prepare a separate booking for every violation of probation or community control. To facilitate this, law enforcement is directed to prepare a separate probable cause affidavit for each violation of probation or community control.
3. Immediately following the arrest without a warrant of a probationer or offender in community control, or no later than the first working day following the arrest, the Sheriff shall notify the supervising authority (i.e. Department of Corrections or Pride, Inc.) of the arrest.
4. A probationer or offender in community control arrested without a warrant shall not be eligible for release prior to his or her appearance before the first appearance judge, or the judge placing him/her on probation or community control.

B. FIRST APPEARANCE

1. PROBABLE CAUSE/BOND

- a. The probationer or offender in community control shall be brought within 24 hours of his or her arrest to a first appearance hearing, before the court granting such probation or community control within the Fifteenth Judicial Circuit, or if arrested on a weekend/holiday before the first appearance judge, to determine if there is probable cause to believe the probationer or offender in community control has violated his or her probation or community control in a material respect.
- b. If probable cause is not found, the judge may grant an additional 72 hours for probable cause to be presented to the court or may order the individual's release on his or her own recognizance (O.R.).
- c. If probable cause is found, the probationer or offender in community control shall, subject to the judge's discretion be released on bond, or be ordered held in custody.

2. EXTRA-TERRITORIAL PROBATION AND COMMUNITY CONTROL

- a. If the court granting such probation or community control is outside the Fifteenth Judicial Circuit, the probationer or offender in community control shall be brought before a judge within 24 hours of his or her arrest for a first appearance hearing, to determine if there is probable cause to believe the probationer or offender in community control has violated his or her probation or community control in a material respect.
- b. If probable cause is not found, the judge may grant an additional 72 hours for probable cause to be presented to the court or may order the individual's release on his or her own recognizance (O.R.).
- c. If probable cause is found, the probationer or offender in community control shall, subject to the first appearance judge's discretion be released on bond, or be ordered held in custody.
- d. For those offenders held in custody, the clerk shall schedule the probationer or offender in community control for another appearance before the first appearance judge within 10 days, to determine if the Sheriff, State and/or the Department of Corrections have made sufficient arrangements for the individual's return to the court granting such probation or community control.
- e. If still in custody after 10 days, and a warrant and/or hold has not been issued, then absent good cause to the contrary the individual shall be released on his or her own recognizance (O.R.).

C. AFFIDAVITS OF VIOLATION

1. Within 10 working days following notification by the Sheriff of the arrest of a probationer or offender in community control, the supervising authority (i.e. D.O.C. or Pride, Inc.) shall file an affidavit of probation or community control violation.
2. If such affidavit is not filed within 10 days, an offender in custody shall be brought back before the court and, absent good cause to the contrary, shall be released on his or her own recognizance (O.R.).

D. HEARINGS ON VIOLATION OF PROBATION/COMMUNITY CONTROL

1. In all felony cases where the probationer has posted bond or been released on his own recognizance prior to the preliminary hearing, the preliminary hearing shall be heard on the third Friday following the release on bond or recognizance.
2. In all misdemeanor and traffic crime cases where the probationer has posted bond or been released on his own recognizance, prior to the preliminary hearing shall be heard on the trial court's next scheduled monthly VOP date (the Deputy Administrative Judge for the County Court Criminal Division shall be responsible for providing the Clerk's Office with the master schedule.)
3. All hearings subsequent to the first appearance hearings contained herein shall be scheduled by the court placing the individual on probation and/or community control.

E. DANGER TO PUBLIC HEARINGS

1. **If the offender is under supervision for any offense listed below, the court will hold a "danger to the public hearing" and make a finding that the probationer or offender is not a danger to the public prior to release:**

**Florida Statute Chapter 794;
Florida Statute §827.071;**

**Florida Statute §800.04(4),(5), or (6);
Florida Statute §847.0154**

2. **A "danger to the public hearing" will be held if the offender is a registered sexual predator, a registered sexual offender, or is under supervision for a criminal offense for which he or she would meet the registration criteria as set forth in Florida Statute §§775.21, 943.0435 or 944.607.**

DONE AND SIGNED in Chambers at West Palm Beach, Palm Beach County, Florida, this 29 day of September, 2008.


Kathleen J. Kroll
Chief Judge