

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

**ADMINISTRATIVE ORDER NO:
09-15-B**

**IN RE: CRIMINAL - ON SITE VIOLATIONS OF PROBATION AND
COMMUNITY CONTROL; FAILURE TO APPEAR, and VIOLATION OF
PROBATION WARRANTS**

Whereas, jail overcrowding has been a long existing problem at the Brevard County Jail; and

Whereas, the Honorable Gregory Presnell, United States District Court Judge, is overseeing an attempt to settle the existing litigation in Federal Court in which Tilman/Lennear is Plaintiff and Brevard County is Defendant, concerning jail overcrowding at the Brevard County Jail; and

Whereas, on August 12, 2008, representatives of the judicial system, law enforcement agencies and county government attended a workshop in Orlando, Florida, to address the issue of jail overcrowding at the Brevard County Jail; and

Whereas, police agencies have the authority by Florida Statute, to make arrests for "on site" violations of probation and community control; and

Whereas, the Clerk of the Court treats an "on site" violation as a new charge and sets "no bond" on all on site violation arrests; and

Whereas, persons may be given reasonable bond on the new law violations but remain incarcerated for a substantial period of time on the on site violation charge without seeing the presiding judge to set bond on the charge; and

Whereas, persons charged with failure to appear warrants remain incarcerated for a substantial period of time on the warrant without seeing the assigned judge; and

Whereas, the foregoing results in inmates being held for substantial periods of time without being brought before the assigned judge for a bond hearing or resolution, thus substantially contributing to jail overcrowding and;

Whereas, it is necessary and essential to reduce the day to day inmate population in an effective way;

Therefore, it is Ordered and Adjudged:

- 1) To accomplish the reduction of inmates held at the Brevard County Jail, any judge sitting for the initial appearance at the Brevard County Jail has the discretion to authorize reasonable bail for any person held under any "Failure to Appear No Bond", or "Violation of Probation No Bond", or "On-sight Violation of Probation No Bond" warrants. In addition, any judge is authorized to review any bail amount set by any judge on any warrant, with or without the consent of the issuing judge.
- 2) Any judge sitting at initial appearance must be cognizant of the Jessica Lunsford Act, the offenders of special concern who are on probation or community control who should not be admitted to bail, ie, those that qualify for violent felony offender, habitual violent felony offender, sexual predator, or other special qualifying offenders by statute. Nothing in this Administrative Order suggests that any County Judge should make rulings on these matters if not properly before that Court.
- 3) Although any judge sitting at initial appearances has discretion to set bail pursuant to this Order, that judge should give deference to, but not necessarily be controlled by, special instructions noted on the warrant by the issuing judge.
- 4) In the event that a defendant continues to be held without being admitted to bail following the initial appearance, the assigned circuit or county judge will conduct a bail review hearing within five business days of the initial appearance. The failure of the assigned judge to hold a review within five business days will not be cause for any special relief, other than as

specifically provided by the Rules of Criminal Procedure, the Florida Statutes, or the Florida Constitution. It is the responsibility of the assigned or retained defense counsel to set the review hearing.

- 5) If the assigned judge is unavailable because of illness, vacation, or for any other reason will be out of the office for that period, any other judge may hear the matter, with or without the consent of the assigned judge.

DONE AND ORDERED this 18TH day of FEBRUARY, 2009.

CLAYTON D. SIMMONS
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Chief Judge

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