

**IN THE COURTS OF THE FIRST JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA**

**ADMINISTRATIVE ORDER NO. 2006-08
(Vacates Administrative Order 2002-04)**

IN RE: PRETRIAL ISSUES

PRE-TRIAL RELEASE PROGRAM - SANTA ROSA COUNTY

WHEREAS, Santa Rosa County and the Court System recognize the benefits of jail alternatives such as Pre-Trial Release, and

WHEREAS, Administrative Order No. 1991-39 established the Pre-Trial Release Program in Santa Rosa County, effective October 5, 1991, and

WHEREAS, Administrative Order No. 2002-04 caused 1991-39 to be vacated; and

WHEREAS, it is recognized that not all defendants are qualified for this program, that certain statutory changes have been enacted, that clarification and amendment is appropriate,

IT IS ORDERED that:

1. Administrative Order No. 2002-04 is hereby vacated.
2. This Court authorizes Santa Rosa County to administrate and supervise the Pre-Trial Release Program in Santa Rosa County.
3. The authorized pre-trial officer may release pre-trial defendants without the prior verbal or written consent of a judge, provided that the following criteria are considered, or met where specified:
 - (1) The nature and circumstances of the offense charged.
 - (2) The weight of the evidence against the defendant.
 - (3) The defendant's family ties, his length of residence in the community, his employment history, his financial resources and his mental condition.
 - (4) The defendant's past and present conduct, including any record of convictions, previous flight to avoid prosecution, or failure to appear at court proceedings.
 - (5) The nature and probability of danger, which the defendant's release poses to the community.

- (6) Whether the defendant is already on release pending resolution of another criminal proceeding or on probation, parole, or other release pending completion of a sentence.
- (7) The Instant Charge. The charge for which the defendant is being considered for release must be a misdemeanor of a non-violent or non-dangerous nature or a third degree felony of a non-violent or non-dangerous nature.
- (8) Prior Record.
 - (a) The defendant has never been convicted of a felony or a misdemeanor involving violence. A withheld adjudication shall be deemed a conviction for this purpose.
 - (b) The defendant has not been incarcerated in a federal or state correctional institution during the last five (5) years.
 - (c) The defendant has not failed to appear for a circuit or county court proceeding during the last five (5) years. (As evidenced by the issuance of an alias capias or bench warrant.)
 - (d) The defendant is not already out on custody on monetary bond, a custody release or pre-trial services release pending resolution of another criminal proceeding.
- (9) Mental Health. The defendant has no obvious mental illness.
- (10) Community Ties:
 - (a) The defendant is a resident of Escambia, Santa Rosa, Okaloosa or Walton County and has a verified address within this area.
 - (b) The defendant has been a resident of Escambia, Santa Rosa, Okaloosa or Walton County for at least six (6) months.
- (11) Family Ties: The defendant is living with either his/her parents, spouse, or children, or if the defendant is living without family in a boarding house arrangement, alone, or with a friend, certification by landlord or friends is mandatory before release.
- (12) Verification: No defendant shall be released to the Program unless verification of address and positive identification has been obtained. If

this cannot be accomplished prior to the first appearance, the defendant shall not be released to the Program until this has been accomplished.

- (13) The defendant has not provided any untruthful information in application for pre-trial release.
4. Excluded Offenses: As provided in Rule 3.131, *Fla.R.Crim.P.*, pre-trial release is precluded and may not be authorized by the judge or the pretrial release officer for any person charged with a capital offense or any offense punishable by life imprisonment, where proof of guilt is evident or the presumption is great. In compliance with §907.041, *Florida Statutes*, no person charged with a dangerous crime shall be granted non-monetary pretrial release at a first appearance hearing; however, the Court shall retain the discretion to release an accused on electronic monitoring or on recognizance bond if the findings on the record of facts and circumstances warrant such a release. Such authority is not delegated to the pretrial officer.

Dangerous crime means any of the following:

- (a) Arson
- (b) Aggravated assault
- (c) Aggravated battery
- (d) Illegal use of explosives
- (e) Child abuse or aggravated child abuse
- (f) Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult
- (g) Hijacking
- (h) Kidnapping
- (i) Homicide
- (j) Manslaughter
- (k) Sexual battery
- (l) Robbery
- (m) Carjacking

- (n) Lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years
 - (o) Sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority
 - (p) Burglary of a dwelling
 - (q) Stalking and aggravated stalking
 - (r) Act of domestic violence as defined in §741.28, *Florida Statutes*.
 - (s) Attempting or conspiring to commit any such crime; and home-invasion robbery
5. Electronic Monitoring (house arrest) may be a condition of pre-trial release when deemed appropriate by the judge presiding at first appearance or subsequent hearing. Special conditions, in addition to house arrest, will be monitored by the pre-trial release officer. The authority to authorize electronic monitoring (House Arrest) is not delegated to the pretrial release officer.
6. In cases where the Sheriff of Escambia, Santa Rosa, Okaloosa and Walton counties, local Chiefs of Police, the State Attorney of the First Judicial Circuit, or any of their deputies, assistants, or designees object to a defendant's release by notifying the Pre-Trial Program of said objection, the defendant shall not be released prior to First Appearance. Release decisions for all such defendants shall be made by the judge presiding at First Appearance.
7. All those not meeting the above requirements of release shall be evaluated for Pre-Trial Release consideration by the judge presiding at First Appearance. At the first appearance hearing, the pretrial release officer shall furnish the assigned judge a written form of investigated or otherwise verified information as follows:
- (a) The circumstances of the accused's family, employment, financial resources, character, mental condition, and length of residence in the community;
 - (b) The accused's record of convictions, of appearances at court proceedings, of flight to avoid prosecution, or of failure to appear at court proceedings; and
 - (c) Other facts necessary to assist the court in the determination of the indigency of the accused and whether she or he should be released under the supervision of the service.

8. Every defendant released on the Pre-Trial Release Program shall pay a \$25.00 fee to the Office of Court Services.
9. A quarterly Pre-Trial Release Activities Report shall be completed and copies distributed to the Court Administrator and to the Chief Judge.

DONE AND ORDERED at Pensacola, Escambia County, Florida this 8th day of February, 2006.

Signed by: Kim A. Skievaski, Chief Judge

Copies furnished to:

Honorable Paul Rasmussen, Administrative Judge, Santa Rosa County
All Judges, Santa Rosa County
Sheriff, Santa Rosa County
Board of County Commissioners, Santa Rosa County