

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

ADMINISTRATIVE ORDER NO.:
10-24-B AMENDED
SUPERSEDES 90-105-Ci-B AND 10-24-B

In Re: JAIL – FARM TIME - ALTERNATIVE TO INCARCERATION PROGRAM (ATIP)

This Administrative Order sets forth the procedure for acceptance into the Alternative To Incarceration Program (ATIP), which shall include individuals sentenced to work duty at the Sheriff's Farm located at 2955 Pluckebaum Road, Cocoa, Florida 32926, or other locations as determined by the Sheriff or the Sheriff's designee, as a part of being sentenced to the Brevard County Jail.

This Administrative Order applies to orders imposing incarceration in the Brevard County Jail in excess of 14 days either as a sentence or as a condition of probation. ATIP eligibility is extended only where such incarceration is imposed on a nonviolent charge that does not involve lewdness, sexual impropriety or a firearm and that is either a misdemeanor or a third degree felony. This Administrative Order also applies to orders directing that an individual to report to the Sheriff's Farm for work duty.

Judicial Determination of Eligibility

The sentencing order imposing such incarceration or an amendment thereto shall reflect a determination as to the defendant's eligibility for inclusion in the ATIP (e.g. "ATIP Eligible," "Not ATIP Eligible," or "ATIP Eligible After X Days") or impose work duty at the Sheriff's Farm. The defendant's eligibility for inclusion in the ATIP shall be governed by that determination.

In determining whether a defendant shall be deemed eligible for inclusion in the ATIP or to spend certain days at the Sheriff's Farm, the Court, in its discretion, may consider whether the defendant's early release from custody poses a danger of injury or damage to the person or property of another and may consider all other factors relative to benefits and detriments of the defendant's incarceration or service on the Sheriff's farm or elsewhere.

If the sentencing order does not address the defendant's ATIP eligibility, the State Attorney, the attorney for the defendant and/or the Sheriff's Jail Commander or his/her designee may request that the sentencing judge amend the sentencing order to reflect a determination as to ATIP eligibility.

Sheriff's Assessment

Upon receipt of an order imposing such incarceration and determining that the defendant is eligible for inclusion in the ATIP, the Sheriff's Jail Commander or his/her designee shall promptly assess whether:

1. The incarceration was imposed on a nonviolent misdemeanor or non-violent third-degree felony that did not involve lewdness, sexual impropriety or a firearm;
2. The incarceration did not constitute a mandatory jail sentence;

3. The defendant is not either serving any other sentence, the subject of any hold or the subject of any pending criminal charge;
4. The defendant is not on felony probation or community control;
5. The defendant has not previously been convicted of any violent crime, a crime involving lewd conduct or sexual impropriety, or any crime involving a firearm; and,
6. There exists a substantial likelihood that the defendant shall appear and perform assigned tasks at the Sheriff's Farm or such other location at which work is to be performed in connection with the ATIP.

If the Sheriff's Jail Commander or his/her designee determines that the defendant does not meet any of the foregoing criteria, such defendant shall be excluded from the ATIP.

Medical Evaluation

Upon assessing that the defendant qualifies for inclusion in the ATIP in accordance with the foregoing criteria, the Sheriff shall expedite the defendant's medical evaluation. The Sheriff shall be entitled to rely on the information provided by the defendant to the Sheriff or his/her employees or agents relative to the defendant's medical history and treatment, as well as with respect to the defendant's training, work experience and familiarization with various tools and equipment.

The Sheriff's Jail Commander or his/her designee may exclude from ATIP any defendant whose medical evaluation does not conclusively demonstrate that such defendant is capable of performing the types of work that may be assigned to the defendant without significant health risk to the defendant or others, Notwithstanding the foregoing, the Sheriff and the Sheriff's employees and agents shall not be liable to the defendant for the evaluation performed pursuant to this provision and the defendant shall sign a release in the form attached to this order if such defendant wishes to be sentenced to the ATIP.

Medical Coverage

Although the Sheriff has obtained a group-type accident insurance policy to provide some insurance benefits to defendants who are sentenced to the ATIP, neither the Sheriff nor the Brevard County Board of County Commissioners shall have any obligation to provide accident or medical insurance coverage or medical care and services to such defendants. Each defendant shall be responsible for the costs of medical care resulting from injuries incurred in performing work in connection with the ATIP to the extent not covered by medical insurance policies.

Acceptance into the ATIP

The Sheriff may accept a qualified defendant into the ATIP and release said person from the Brevard County Jail upon the defendant's voluntary, written agreement to comply with:

1. A schedule of work days equal to the number of days remaining on his or her incarceration, exclusive of any gain time or other discretionary sentence reduction; and,
 2. The rules of the ATIP and the rules applicable to performing the work whether at the Sheriff's Farm or elsewhere.
 3. Unless determined by the sentencing judge to be indigent, payment to the Sheriff's in the amount of \$10.00 to cover the costs associated with the accident insurance policy obtained by the Sheriff relative to defendants who are injured while performing work in the ATIP.
- No person shall be compelled to enter into the ATIP against his or her will.

Performance of Work

The Sheriff's Jail Commander or his/her designee may have a defendant who is sentenced to the ATIP perform work at the Sheriff's Farm or at other locations, under the supervision of employees or agents of the Sheriff. In addition, a defendant who is sentenced to the ATIP may be required to perform work at locations other than the Sheriff's Farm under the supervision of employees or agents of the Brevard County Board of County Commissioners.

Effect on Probation

If the defendant is sentenced to incarceration as a condition of probation and released into the ATIP, appearance at the Sheriff's Farm and completion of the assigned tasks at the Sheriff's Farm or elsewhere shall constitute a condition of the defendant's probation.

Acceptance into the ATIP shall not constitute a modification of the defendant's sentence or probation.

The defendant shall report to his or her probation officer within 24 hours of release (excluding weekends and holidays) that he or she has been released into the ATIP.

Failure to Appear and Perform

In the event that a person accepted into the ATIP or otherwise ordered to report to the Sheriff's Farm for work duty fails to appear and perform the assigned tasks at the Sheriff's Farm or elsewhere, the Sheriff's Jail Commander or his/her designee shall promptly notify the sentencing judge who may issue a bench warrant for the defendant's arrest and detention in the Brevard County Jail for the balance of his or her sentence.

In the event that the defendant is on probation, the Sheriff's Jail Commander or his/her designee shall promptly notify the defendant's probation officer, if any, who may submit an affidavit of violation of probation for issuance of a warrant for violation of probation.

Protection from Liability

The Sheriff of Brevard County and any and all sheriff's deputies, corrections officers, employees and agents, including, without limitation, the Sheriff's Jail Commander or his/her designee, shall be afforded protection from liability for damages arising from the fulfillment their duty pursuant to this Administrative Order, including, but not limited to supervising defendants who are performing work under the ATIP, to the extent provided by law. In addition, the Brevard County Board of County Commissioners and its employees and agents shall be afforded protection from liability for damages arising from the fulfillment of their duty pursuant to this Administrative Order, including, but not limited to supervising defendants who are performing work under the ATIP, to the extent provided by law. Moreover, as a condition of participating in the ATIP, the defendant shall sign a release in the form attached to this order if such defendant wishes to be sentenced to the ATIP.

DONE AND ORDERED this 15th day of September, 2010

J. PRESTON SILVERNAIL
J. PRESTON SILVERNAIL
CHIEF JUDGE

Distribution:

All Circuit and County Judges (Brevard County)
Court Administration (Brevard and Seminole Counties)
Clerk of Court (Brevard County)
State Attorney
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ATTACHMENT
RELEASE, HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

I, the undersigned, for and in consideration of the opportunity to participate in the Alternative to Incarceration Program pursuant to Administrative Order 10-__-B (hereinafter, the **AATIP@**) and the benefit flowing from the services being provided by J.R. "Jack" Parker, in his capacity as Sheriff of Brevard County, Florida, and his employees and agents, and the Brevard County Board of County Commissioners and its employees and agents, (hereinafter, collectively the "**RELEASED PARTY**"), hereby release and agree to defend, indemnify and save harmless, and shall defend, indemnify and hold harmless, the **RELEASED PARTY** from and against any and all liability, claims, demands, suits, actions, losses, damages, expenses, fees or fines, of any kind and nature, arising or growing out of or in any way connected with the undersigned's participation in the **ATIP**, INCLUDING DUE TO THE NEGLIGENCE OF THE **RELEASED PARTY**.

I FULLY UNDERSTAND THAT: (i) I WILL BE PERFORMING WORK IN THE **ATIP** WHICH MAY FROM TIME TO TIME BE VERY DANGEROUS AND SUCH WORK MAY INVOLVE RISKS AND DANGERS OF SERIOUS BODILY INJURY, INCLUDING PERMANENT DISABILITY, PARALYSIS AND DEATH (**ARISKS@**); (ii) THESE **RISKS** AND DANGERS MAY BE CAUSED BY MY ACTIONS OR INACTIONS OR THE ACTIONS OR INACTIONS OF OTHERS PARTICIPATING IN THE **ATIP**, THE RULES OF THE **ATIP**, OR THE NEGLIGENCE OF THE **RELEASED PARTY**; (iii) THERE MAY BE OTHER **RISKS** NOT KNOWN TO ME OR THAT MAY NOT BE READILY FORESEEABLE AT THIS TIME; AND (iv) THE SOCIAL AND ECONOMIC LOSSES AND DAMAGES THAT COULD RESULT FROM THOSE **RISKS** COULD BE SEVERE AND COULD PERMANENTLY CHANGE MY FUTURE.

I HEREBY ACCEPT AND ASSUME ALL SUCH **RISKS**, KNOWN AND UNKNOWN, AND ASSUME ALL RESPONSIBILITY FOR THE LOSSES, COSTS AND DAMAGES FOLLOWING SUCH INJURY, DISABILITY, PARALYSIS OR DEATH, EVEN IF CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE OF THE **RELEASED PARTY**.

This Release shall be binding upon my assigns, successors, personal representatives, executors, administrators and heirs.

This Release shall be governed by the laws of the State of Florida and any action brought to interpret or enforce this Release shall be brought exclusively in the appropriate state court situated in Brevard County, Florida.

I HAVE READ THIS RELEASE, HOLD HARMLESS AND INDEMNIFICATION AGREEMENT, UNDERSTAND THAT BY SIGNING IT I GIVE UP SUBSTANTIAL RIGHTS I WOULD OTHERWISE HAVE TO RECOVER DAMAGES FOR LOSSES OCCASIONED BY THE RELEASEES= FAULT, AND SIGN IT VOLUNTARILY AND WITHOUT INDUCEMENT.

DATE

SIGNATURE OF RELEASOR
Printed Name: _____
OF RELEASOR

SIGNATURE OF WITNESS
Printed Name: _____
OF WITNESS