

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

ADMINISTRATIVE ORDER NO. :
05-36-B
SUPERSEDES 03-11-B AMENDED

IN RE: JUDGES - CASELOAD ASSIGNMENTS - ASSIGNMENT OF CASES IN FELONY
CRIMINAL DEPARTMENT OF THE CIRCUIT COURT OF BREVARD COUNTY,
FLORIDA

A. CREATION OF DIVISIONS:

The Criminal Department of the Circuit Court of Brevard County shall consist of five divisions designated as Criminal Divisions I, IIA, IIB, IIC and IID. One of the Judges serving in the Criminal Department shall be appointed as Administrative Judge by the Chief Judge of the 18th Judicial Circuit. Assignment of judges to the respective divisions shall be for an initial period of one year which may be enlarged or reduced in accordance with the Florida Rules of Judicial Administration.

B. RESPONSIBILITIES OF JUDGES:

The judge of each division shall be responsible for the progress and conduct of all cases assigned to that division from inception to conclusion, including, but not limited to pretrial, trial, and post trial motions, and shall exercise supervision over the preparation of all calendars and dockets of cases assigned to the division. Initial appearances shall continue to be handled by the County Court Judges of Brevard County. Arraignments shall continue to be handled by the County Court Judges of Brevard County unless the Criminal Division Judge to whom any case is assigned advises the Clerk that the arraignment will be handled by the assigned Criminal Division Judge; any Criminal Division Judge may advise the Clerk that they will handle all the arraignments for cases assigned to their criminal division without the need for a new administrative order addressing this.

C. DEFINITION OF CAPITAL CASE:

For the purpose of this order a "capital case" is only a case in which an indictment has been filed charging one or more defendants with First Degree Murder.

D. ASSIGNMENT OF CASES FILED AFTER June 30, 2003:

- 1) The clerk of the court shall establish a "GRID SYSTEM" for the assignment of felony cases. Case assignments shall be made based upon the region of the arresting agency. The "GRID SYSTEM" shall provide for the shifting of cases from one division to another to provide a balanced caseload.
- 2) The regions shall be structured as follows:
DIVISION I: **NORTH REGION** - North Brevard County Line to the North side of State Road 528.
DIVISION II: **SOUTH REGION** - North side of State Road 528 to South Brevard County Line.

In order to provide a balanced caseload, the "GRID SYSTEM" shall provide for the shifting of cases from one division to another. Division I cases may be shifted to Division II. Division II cases may be shifted to Division I, depending on the balance at the time of the review. The objective is for all Criminal Division Judges to receive an equal number of cases.

- 3) Upon the filing of an initial charging document (including those charging capital offenses unless the initial charging document is an indictment) in the Felony Division of the Clerk's Office, the Judge Division Assignment shall be made utilizing the following criteria:
 - (a) North Region cases shall be assigned to Division I of the Criminal Department of the Circuit Court. Judge Holcomb (or his successor) is presently assigned to Division I.
 - (b) South Region cases shall be assigned to Division II of the Criminal Department of the Circuit Court. These cases shall be divided equally among the four sitting felony judges (or their successors) at the Moore Justice Center and they shall be defined as IIA, IIB, IIC, and IID. Present Division II assignments are: IIA, Judge Rainwater; IIB, Judge Maxwell; IIC, Judge Dugan, IID Judge Davidson. Substantive cases assigned to Division II after June 30, 2003, shall be allocated alphabetically by last name (without regard to where in the South Region the arrest occurred) as follows:
A-D: Judge Rainwater (Division IIA);
E-K: Judge Maxwell Division IIB);
L-R: Judge Dugan (Division IIC);
S-Z: Judge Davidson (Division IID)
- 4) Subsequent charging documents which identify additional defendants who are charged with offenses arising from the same incident shall receive the same Judge Division Assignment as the initial defendant charged as provided above.
- 5) Subsequent cases, including VOPs, against the same defendant who has a pending substantive case shall be assigned/reassigned to the same Division to which the lowest open substantive case number is assigned.

- 6) VOPs for a defendant who has no pending substantive felony case shall be assigned/reassigned in the same manner as new substantive cases, according to the geographic region, as currently defined, where the original offense occurred; to wit: North Division cases to Division I; South Division cases to Division II, according to the alphabetical breakdown. Neither the identity of the particular judge who signs a VOP warrant, nor the identity of the judge who actually signs the last sentence imposed in a particular case, nor the passage of time shall be of any consideration whatsoever; it is the Division which counts, not the identity of the particular judge whose signature appears on the document, nor the amount of time elapsed since the last sentence was imposed.
- 7) Post-Conviction motions (3.800, 3.850, etc.) shall be assigned to the Division in which the sentence addressed was imposed irrespective of the identity of the judge who imposed the sentence or the amount of time elapsed since the sentence was imposed.
- 8) Any case arising from the direct filing of an Information/Indictment (prior to arrest of any defendant named therein) shall be assigned to the Division of the region in which the crime occurred; if the assignment is to Division II, then the assignment within Division II shall be made alphabetically as set forth above.
- 9) The clerk shall make adjustments in the "GRID SYSTEM" assignments based upon the following occurrences:
 - (a) Filing case reduced to a misdemeanor.
 - (b) State Attorney action "Nolle Prosequi"
 - (c) State Attorney action "No File"
 - (d) Entry of an Order changing venue from Brevard County.
 - (e) Entry of any Order of re-assignment.

The Clerk is ordered to monitor the balance of case assignments on a quarterly basis, report the findings to the chief judge with a copy to each of the judges in the criminal department, and make any necessary adjustments in accordance with the criteria established in this Administrative Order to ensure a balanced case load among the Divisions. The alphabetical allocation among Division II judges is based on experience; the Division II judges will meet semi-annually to recommend equalization adjustments to the chief judge. The Clerk shall promptly report any difficulties in maintaining a balanced caseload to the Chief Judge.

E. CAPITAL CASE ASSIGNMENT PROCEDURES:

- 1) When an indictment is filed that includes a charge of First Degree Murder the case shall be assigned/reassigned to Judge Holcomb, Judge Rainwater, Judge Maxwell, Judge Davidson or Judge Dugan in succession; their successors shall assume their position in the rotation. If the Chief Judge wishes to be part of the rotation, he/she will so advise the Clerk and the rotation succession shall be so adjusted.

- 2) Any judge assuming a criminal division shall take the required course on Handling Capital Cases before assuming the criminal division if possible, but in any event shall take the course at the earliest opportunity. Each criminal division judge shall comply with all "refresher" education requirements.
- 3) If a death sentence is affirmed on appeal then all post-conviction matters shall be heard by the sentencing judge for so long as that judge is on the circuit bench irrespective of their division assignment. If the sentencing judge is recused or is no longer on the circuit bench then the Clerk shall reassign the case for post-conviction proceedings to one of the judges in the criminal division in succession; as these judges leave the criminal division they will take with them any capital post-conviction proceedings previously assigned to them and their respective successors in the criminal division will be assigned the next capital post-conviction proceedings until all active judges in the criminal division have an equal number, after which the rotation system among all the criminal division judges will recommence.

F. DUTIES OF ADMINISTRATIVE JUDGE:

The Administrative Judge of the Criminal Division, in addition to those duties specifically assigned herein, shall be responsible for the general supervision of that department and shall perform those administrative duties necessary to its efficient and effective operation in conformity with the applicable policies, procedures and rules governing the administration of that department as contemplated by Rule 2.050(b)(5), Fla.R.Jud.Admin.

H. EFFECTIVE DATE:

This Order shall become take effect on June 30, 2003. The Clerk of the Court is hereby directed to provide for modification in its procedure such as will properly implement this order as of the effective date.
DONE AND ORDERED this 1ST day of JULY, 2005.

KERRY I. EVANDER

Kerry I. Evander
CHIEF JUDGE

Distribution:

All Circuit and County Judges (Brevard County)
Court Administration (Brevard and Seminole Counties)
Clerk of Court (Brevard County)
State Attorney
Public Defender
Sheriff (Brevard County)
Bar Association (Brevard County)
Law Library (Brevard County)
Court Alternatives (Brevard County)