

“Keep Orlando a safe city by reducing crime and maintaining livable neighborhoods.”

ORLANDO POLICE DEPARTMENT POLICY AND PROCEDURE

1207.4, STANDARD BONDS, PRETRIAL RELEASE, AND PRETRIAL DETENTION

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1. PURPOSE

The purpose of this policy is to advise personnel about procedures and laws pertaining to standard bonds, pretrial release conditions, and about procedures pertaining to mandatory pretrial detention hearings.

2. POLICY

It is the policy of the Orlando Police Department to ensure that certain arrestees are held for first appearance when appropriate. Officers will use sound discretion in determining whether an arrestee should be held and not allowed to post a standard bond set by the bond schedule before appearing before a judge. The officer must list the reasons for the hold. Any request to hold a defendant for first appearance on otherwise bondable charges must be approved by a supervisory officer.

3. DEFINITIONS

Dangerous Crime: A “dangerous crime” as set forth in Fla Stat. section [901.041\(5\)\(a\)](#), means any of the following: Arson; Aggravated assault; Aggravated battery; Illegal use of explosives; Child abuse or aggravated child abuse; Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult; Aircraft piracy; Kidnapping; Homicide; Manslaughter, including DUI manslaughter and BUI manslaughter; Sexual battery; Robbery; Carjacking;

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Lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years; 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; Burglary of a dwelling; Stalking and aggravated stalking; Act of domestic violence as defined in Fla. Stat. [741.28](#); Home invasion robbery; Act of terrorism as defined in Fla. Stat. [775.30](#); Manufacturing any substances in violation of chapter 893; Attempting or conspiring to commit any such crime; Human trafficking; Trafficking in any controlled substance described in Fla. Stat. [893.135\(1\)\(c\)4](#); Extortion in violation of Fla. Stat. [836.05](#); and Written threats to kill in violation of Fla. Stat. [836.10](#).

First Appearance Hearing: The first appearance of a criminal defendant before a judge in court at which bond and other pretrial release conditions will be set. Defendants who have not already been lawfully released from custody are entitled to be brought before the court for a first appearance promptly after their arrest. A first appearance hearing is also sometimes referred to as an initial appearance hearing.

Forcible Felony: A “forcible felony” as set forth in Fla. Stat. section [907.041](#), means treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

Pretrial Detention Hearing: A hearing conducted pursuant to Fla. Stat. section [907.041](#), pursuant to a motion filed by the State Attorney on certain “dangerous crimes” at which the court will determine whether a criminal defendant should be detained in custody without bond pending trial.

Standard Bond Schedule: A judicial administrative order that sets pretrial release standards and presumptive bond amounts for Orange County. Fla. Stat. section [903.011\(5\)](#), prohibits local standard bond schedules from setting standard bonds that are lower than those set by the uniform statewide bond schedule.

Unauthorized Alien: An “unauthorized alien” as set forth in Fla. Stat. section [907.041](#) means a person who is unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, 8 U.S.C. ss. 1101 et seq. The term shall be interpreted consistently with any applicable federal statutes, rules, or regulations.

Uniform Statewide Bond Schedule: A judicial administrative order set by the Florida Supreme Court which sets certain presumptive bond amounts and pretrial release standards that are applicable across the State of Florida. Fla. Stat. section [903.011\(5\)](#), requires the Florida Supreme Court to adopt a uniform statewide bond schedule and update it annually.

4. PROCEDURES

4.1 STANDARDS BONDS/PRETRIAL RELEASE

4.1.1 BOND SCHEDULES

The standard bond schedule that sets pretrial release standards and presumptive bond amounts for Orange County is set by judicial administrative order [2022-03-1](#). A complete list of all offenses specifically listed on the standard bond schedule as well as the presumptive bond amounts is included as Attachment A.

As a general rule the uniform statewide bond schedule set by Fl. Sup. Ct. Administrative Order No. [AOSC23-88](#) and the local standard bond schedule provide that:

1. Arrestees being charged with any capital felony, life felony, first-degree felony, or second-degree felony must appear before the court for a first appearance hearing prior to being permitted to post a bond.

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2. Arrestees being charged with any other crime set forth in Florida Statute section [903.011\(6\)\(g\)](#), must appear before the court for a first appearance hearing prior to being permitted to post a bond.
3. Arrestees being charged with most third-degree felonies involving any force or threat of force may post a \$5,000 bond.
4. Arrestees being charged with most third-degree felonies not involving force or threat of force may post a \$2,500 bond.
5. Arrestees being charged with most first-degree misdemeanors involving any force or threat of force may post a \$1,000 bond.
6. Arrestees being charged with most first-degree misdemeanors not involving any force or threat of force may post a \$500 bond.
7. Arrestees being charged with most second-degree misdemeanors (including city ordinance violations) involving any force or threat of force may post a \$250 bond.
8. Arrestees being charged with most second-degree misdemeanors (including city ordinance violations) not involving any force or threat of force may post a \$150 bond.

Higher bonds or no bonds (until first appearance) are provided for certain types of offenses, such as domestic violence, escape, etc. Bonds are automatically doubled for those arrestees who reside outside the state.

The dollar amounts listed on the standard bond schedule are presumed to be correct and unless the bond schedule requires that the arrestee appear for a first appearance hearing prior to setting bond based upon the specific charges or the arrestee's criminal background, most arrests should not require a hold for first appearance.

4.1.2 MANDATORY REASONS TO REQUEST A HOLD FOR FIRST APPEARANCE

Pursuant to section [903.011\(6\)\(a\)-\(f\)](#), Fla. Stat., arrestees who meet the following criteria **must** be held without bond until going before a judge for first appearance regardless of the crimes with which they are charged:

- The arrestee is on pretrial release, probation, community control, or parole.
- The arrestee is designated as a sexual offender or sexual predator.
- The arrestee has previously been sentenced as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal.
- The arrestee has been arrested three or more times in the last 6 months.
- The crime charged was committed for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.

Pursuant to section [907.041\(6\)\(b\)](#), Fla. Stat., arrestees who are unauthorized aliens arrested for forcible felonies are not eligible for release until he or she appears before a judge for first appearance.

When an officer is aware that one of the above criteria is applicable to an arrestee, the officer shall request a hold for first appearance.

The officer shall note the specific criteria that is applicable in the affidavit in support of the arrest. The officer shall be as detailed as may be necessary to establish the applicability of the criteria that is alleged. For example, if the arrestee has been arrested three or more times in the last 6 months, the officer should list the specific dates of the prior arrests along with the relevant case numbers relating to those arrests in the affidavit.

4.1.3 DISCRETIONARY REASONS TO REQUEST A HOLD FOR APPEARANCE

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Officers may request a hold on the charging affidavit for reasons other than those set forth in section 4.1.2 only where the officer:

- a. Specifically lists in the charging affidavit the reason why the arrestee should not be granted bond in accordance with the bond schedule; **AND**
- b. Receives supervisory approval to place the hold and notes same in the affidavit.

Some of the reasons why an officer may request a hold for first appearance, include, but are not limited to:

- The defendant has made a threat to retaliate against a witness or victim and the officer reasonably believes that the defendant may carry out the threat.
- The defendant is currently on some form of pretrial release for another offense. These defendants are currently not eligible for bond before first appearance but the jail may or may not be aware of the defendant's status. If the officer is so aware, the officer should inform BRC personnel accordingly.
- The facts or circumstances for the offense for which the defendant was arrested are particularly aggravated. The officer should be specific.
- The defendant has threatened to take flight upon release or the officer can otherwise document that the defendant is a flight risk.
- The defendant is believed to be wanted in another jurisdiction and the officer needs additional time to confirm the wanted status.
- The officer has reason to believe that the defendant is using an alias and the officer needs additional time to confirm the identity of the individual.
- Felony arrest involving a habitual felony offender.
- When the source of funds used to post bail or procure an appearance bond may be linked to or derived from the crime alleged to have been committed or from any other criminal or illicit activities, the Member may request a "Nebbia Hold." If a judge grants the request and places a Nebbia hold on the defendant, a hearing will be held for the defendant to establish the source of the funds to be used to post bail.

This is not an exclusive listing of the reasons why an officer may believe that a hold for first appearance is appropriate; each case must be evaluated on its own merits. The officer must list the reasons for the hold.

It is expected that officers will use sound discretion in determining whether an arrestee should be held for first appearance and not allowed to post the standard bond listed within the schedule.

4.2 PRETRIAL DETENTION HEARINGS

Florida Statute section [907.041](#), **requires** the State Attorney's Office to move for pretrial detention at the Initial Appearance hearing when defendants are charged with certain qualifying offenses or who are unauthorized aliens charged with forcible felonies. A Pretrial Detention Hearing must then be scheduled before the trial judge within 5 days of the arrest.

The State is required to introduce **live testimony** from one or more material witnesses at the Pretrial Detention Hearing and will likely require an officer to testify. After making an arrest for an offense that qualifies for a mandatory Pretrial Detention Hearing, officers shall prepare accordingly by:

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1. Being available for the Pretrial Detention Hearing; and
2. Providing phone numbers, email addresses, and social media direct messaging identifiers of witnesses to the State as soon after the arrest as is practicable.

Pretrial Detention Hearings are **mandatory** if the crime is:

1. A “Dangerous Crime” as defined by Florida Statute section [907.041](#), **AND**
2. A capital, life, or first-degree felony.

A list of crimes for which Pretrial Detention Hearings are **mandatory** is included as Attachment B.

Pretrial Detention Hearings are also mandatory if the arrestee is an unauthorized alien charged with any forcible felony.

5. FORMS AND APPENDICES

ATTACHMENT A-Ninth Judicial Circuit Standard Bond Schedule Specific Felonies

ATTACHMENT B-Crimes Requiring Mandatory Pretrial Detention Hearings