

IN THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR THE STATE OF FLORIDA

IN RE: FCIC/ NCIC /
THE JESSICA LUNSFORD ACT
AND THE ANTI-MURDER ACT

ADMINISTRATIVE ORDER
NO: 3.9
-Amended-

WHEREAS, the 2005 Florida Legislature enacted the "Jessica Lunsford Act," Chapter 2005-28, Laws of Florida, relating to high-risk sex offenders; and

WHEREAS, under Section 15 of the Jessica Lunsford Act, the 2005 Florida Legislature created Fla. Stat. § 948.061 to aid in the identification of high-risk sex offenders on probation or community control and to ensure that relevant criminal history information is available to the Court when the person is brought before a judicial officer within twenty-four hours after arrest in accordance with Fla. R. Crim. P. 3.130 (referred to herein as the "First Appearance Hearing"); and

WHEREAS, Fla. Stat. § 948.061(2) specifically requires that the county jail, in the county where an arrested person is booked, provide to the Court at the First Appearance Hearing, the state and national criminal history information and all criminal justice information available in the Florida Crime Information Center (FCIC) and the National Crime Information Center (NCIC), collectively referred to herein as the "FCIC/NCIC records report;" and

WHEREAS, the requirement that the Court be provided with FCIC/NCIC reports also serves the purpose of helping to ensure that the Court has information before it to carry out the intent of the "Anti-Murder Act," Chapter 2007-2, Laws of Florida, as it relates to the detention of certain felony offenders pending probation-violation or community-control-violation hearings;

NOW, THEREFORE, pursuant to the authority prescribed by Fla. R. Jud. Admin. 2.215, it is hereby **ORDERED** as follows:

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1. In accordance with Fla. Stat. § 948.061, the Sheriff of each county within the Twentieth Judicial Circuit is responsible for running the FCIC/NCIC records report on each person arrested and booked in each respective county jail.

2. To facilitate the early identification of high-risk sex offenders and violent felony offenders and to ensure that the Court has information available to comply with its duties under Fla. Stat. § 948.06, the Sheriff's staff in the jail shall provide to the Court prior to the First Appearance Hearing the FCIC/NCIC records report for each person arrested and booked.

3. Before releasing prior to First Appearance any probationer or offender in community control who is arrested and jailed, the Sheriff shall certify to the Court that, pursuant to Fla. Stat. § 948.06, the person does not qualify under the Jessica Lunsford Act for a hearing to determine whether the person is a danger to the public and does not qualify under the Anti-Murder Act for detention pending a probation violation or community-control violation hearing. The certification shall comply substantively with the format of "Attachment A." To the extent that the certifications are derived from FCIC/NCIC information, such certifications shall remain confidential in accordance with FDLE/FBI security rules and user agreements. The Sheriff shall file the original of the completed certification form with the Office of the Clerk of Courts for placement in the court file and shall retain a copy for the jail's records. In counties where the Administrative Office of the Courts (AOC) has an established a Pretrial Services Division, the Sheriff shall also provide a copy of the certification to the AOC's Pretrial Services Division, regardless of whether an interlocal agreement exists, as specified in paragraph 4 below.

4. In counties wherein the AOC has an established Pretrial Services Division, the Sheriff of that county may elect to utilize the AOC's pretrial services staff to run the FCIC/NCIC records report required by Fla. Stat. § 948.061. Should the Sheriff so elect, the Court Administrator is hereby authorized to enter into an interlocal agreement for the provision of such services if the

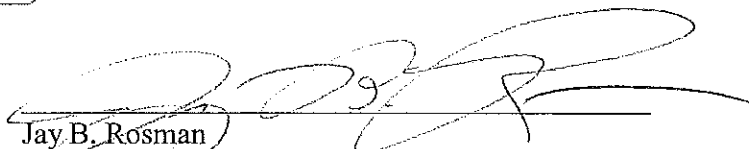
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AOC has sufficient staff and other resources to accommodate the Sheriff's request. This provision does not mandate that the parties enter into an interlocal agreement, but merely authorizes such. Notwithstanding such an interlocal agreement, it shall remain the Sheriff's responsibility to ensure that the FCIC/NCIC records report is run, that the certification specified herein is provided to the Court, and that a person is not released prior to a First Appearance Hearing if that person qualifies as a high-risk sex offender or qualifies for a hearing to determine whether the person is a danger to the public pursuant to Fla. Stat. § 948.06.

5. Dissemination of FCIC/NCIC records reports, or information contained therein, shall be in strict accordance with federal and state law, and in strict accordance with FDLE and FBI security rules and user agreements. The Sheriff, or the AOC's Pretrial Services Division if the parties have entered into an applicable interlocal agreement, shall maintain a log documenting the dissemination of FCIC/NCIC records reports pursuant to this Administrative Order.

6. To the extent that any provision of this Administrative Order may be construed as being in conflict with any law, statute, or rule, the law, statute, or rule shall prevail.

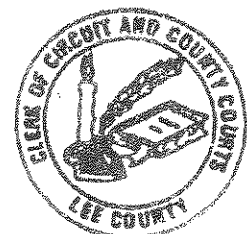
DONE AND ORDERED in chambers in Fort Myers, Lee County, Florida, this 3rd day of Feb, 2012.


Jay B. Rosman
Chief Judge

History. – Administrative Order 3.9 (January 28, 1991); Administrative Order 3.9 (September 29, 2006); Administrative Order 3.9 (November 7, 2007).

STATE OF FLORIDA, COUNTY OF LEE
FILED FOR RECORD
This 3 Day of FEB Recorded In CIRCUIT
Book 56 Page 4-7 and Record Verified.
CHARLIE GREEN By [Signature]
Clerk Circuit Court Deputy Clerk

I certify this document to be a true and correct copy of the record on file in my office, Charlie Green, Clerk Circuit/County Court, Lee County, FL
Dated: 02/03/12
By [Signature]
Deputy Clerk



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