

**IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN
AND FOR MIAMI DADE COUNTY**

**CASE NO. 21-1
(Court Administration)**

**ADMINISTRATIVE ORDER
NO. 21-18
(Rescinding AO No. 21-04)**

**IN RE: RE-ESTABLISHMENT OF THE
PROCEDURES REGARDING VETERANS
TREATMENT COURT**

WHEREAS, the Chief Judge of the Eleventh Judicial Circuit, pursuant to Rule 2.215 of the Florida Rules of General Practice and Judicial Administration, has the authority to adopt administrative orders necessary to ensure the operation of the Eleventh Judicial Circuit (“Court”);

WHEREAS, a significant number of veterans and servicemembers have sustained service-related mental health conditions, service-related traumatic brain injuries, service-related substance use disorders, or service-related physiological problems or have experienced military sexual traumas;

WHEREAS, such conditions sometimes make it difficult for veterans and servicemembers to reintegrate into civilian life thus can lead to behaviors resulting in arrest;

WHEREAS, section 394.47891, Florida Statutes, which authorizes each judicial circuit to create and maintain a veterans treatment court was recently amended, clarifying eligible persons and program procedures for veterans treatment courts;

WHEREAS, the purpose of a veterans treatment court (“VTC”) is to address the underlying causes of a veteran’s involvement with the judicial system through the use of specialized dockets, multidisciplinary teams, and evidence-based treatment;

WHEREAS, the United States Department of Veterans Affairs (“Department”) is able to assist the Court with the provision of services for veterans or servicemembers eligible to receive benefits from the Department who are arrested for certain felony offenses;

WHEREAS, the services provided by the Department will enable meaningful treatment for veterans that will help reduce recidivism and improve public safety;

WHEREAS, it has been determined that the creation and implementation of a VTC in this Circuit would provide a means to divert eligible veteran and servicemember participants from the traditional criminal justice system and provide them support and rehabilitation through comprehensive substance abuse and/or mental health treatment; educational and vocational programs; and community resource referrals for employment, housing, and transportation, all while being judicially monitored;

WHEREAS, the VTC is made up of an extensive collaboration of dedicated partners, including criminal justice agencies, federal veterans' agencies, and local community veterans' organizations;

WHEREAS, the VTC will maintain strict compliance with all applicable state and federal laws, and specifically sections 394.47891, 948.08(7) and 948.21, Florida Statutes;

WHEREAS, Section CF 57 of the Criminal Division of the Circuit Court was established to divert eligible veteran and servicemember felony defendants who have sustained service-related mental health conditions, service-related traumatic brain injuries, service-related substance use disorders, or service-related physiological problems or have experienced military sexual traumas from the traditional criminal justice system into appropriate treatment environments without sacrificing community protection and safety for all citizens; and

WHEREAS, this Administrative Order also serves the purpose of formalizing into writing the procedures of the VTC in the Eleventh Judicial Circuit, which has been successfully in operation since it was established in January 2017.

NOW THEREFORE, pursuant to the authority vested in me as Chief Judge of the Eleventh Judicial Circuit of Florida, the following procedures shall apply to the VTC:

(1) GENERAL PROVISIONS

(a) Establishment. The VTC has been established for circuit criminal cases, effective January 19, 2017.

(b) Presiding Judge. A judge assigned to the Criminal Division shall preside over the VTC ("VTC Judge") with the exclusive authority to establish the calendar for VTC hearings.

(c) Admission. A defendant seeking to participate in VTC must submit an application to the State Attorney's Office. The State Attorney's Office must review each application and determine whether the defendant meets the eligibility requirements set forth in section 394.47891(8),

Florida Statutes. A defendant who meets the eligibility requirements may be admitted into the VTC program at any stage of a criminal proceeding.

(d) Eligibility Criteria. A defendant may participate in VTC if he or she is approved by the state attorney, in consultation with the court, and meets the following criteria:

- i. Be 18 years or older.
- ii. Reside in Miami-Dade or Broward County.
- iii. Be a veteran, as defined in section 394.47891(2)(d), Florida Statutes, or a servicemember, as defined in section 394.47891(2)(c), Florida Statutes.
- iv. Suffer from a service-related mental health condition, service-related traumatic brain injury, service-related substance use disorder, or service-related psychological problem or has experienced military sexual trauma.
- v. Be otherwise eligible for a pretrial intervention program as prescribed in section 948.08(7), Florida Statutes, or eligible for a post adjudicatory program under section 948.06(2)(k), Florida Statutes.
- vi. Be screened as either High Risk and High Need or Low Risk and High Need per the Risk and Needs Triage (RANT).
- vii. Consult with counsel and voluntarily agree to enter VTC, waiving the right to a speedy trial.

(e) Referral and Screening Process. Each defendant interested in participating in VTC must submit an application to the State Attorney's Office and complete the following referral and screening process:

- i. The referral of a defendant into VTC who meets the eligibility requirements may be made upon motion of either party, or the Court's own motion.
- ii. VTC cannot accept referrals until the State has officially filed charges and the case has been arraigned.
- iii. If a defendant is identified as having served in the United States Military and expresses an interest in VTC, the defense attorney will complete and review the referral packet, in its entirety, with the defendant and send the completed documents to: VTC@jud11.flcourts.org.
- iv. VTC staff will forward the completed referral documents to the State Attorney's Office, the Veterans Justice Outreach ("VJO") Specialist, the Veterans Service Officer ("VSO") for eligibility review and processing.
 - i. The State Attorney's Office will advise the VTC staff and defense attorney whether the defendant meets the eligibility criteria within 14 days from receipt of the referral.

- ii. The VSO will notify the VTC staff of the defendant's eligibility for VHA services, if available, within 48 hours from the receipt of the referral.
 - iii. The VJO will provide the VTC staff with the defendant's documented mental health and/or substance abuse diagnoses, if available, with a properly executed release of information VA Form 10-5345.
- v. The VTC staff will conduct a preliminary screening within 7-10 days to determine clinical program eligibility.
 - i. The screening is done to determine criminogenic risk and treatment needs. To be eligible, the defendant must be screened as either **High Risk and High Need** (track I) or **Low Risk and High Need** (track II).
- vi. If the defendant is deemed eligible by the State Attorney's Office:
 - i. The referring party will place the defendant on the **Division Judge's** calendar with 1-5 days to have the case transferred to Division 57 (VTC); **OR**
 - ii. The referring party or VTC Staff will email the VTC Judge's judicial assistance to set the case on the **Division Judge's** calendar within 1-5 days. An email will be sent to the defense attorney, the Assistant State Attorney, VJO, VSO and VTC case manager(s) to notify all parties of the date and time the defendant's case will be heard on the **Division Judge's** calendar for transfer into VTC.
- vii. Once the case is transferred into Division 57, an initial hearing will be set before the VTC Judge who provides the defendant a brief orientation and explanation of the basic program rules and requirements of VTC. The defense attorney will review the participant agreement contract with the defendant, who may sign the form as acceptance into VTC.

(f) Post-adjudicatory basis. An offender may be eligible for entry into the VTC on a post-adjudicatory basis, where entry into, participation in and successful completion of VTC is a condition of his or her probation. In addition to meeting the eligibility requirements of section 948.06(2)(k), Florida Statutes, an offender seeking admission into the VTC on a post-adjudicatory basis must also submit an application to the State Attorney's Office. The State Attorney's Office must review each application and determine whether the offender meets the eligibility requirements set forth in section 394.47891(8). If the offender is deemed eligible to participate in VTC, the probation plea for such post-adjudicatory cases shall be taken in the assigned division and, thereafter, transferred into Division 57, VTC. The case will remain in VTC until the offender is no longer active in the program, the case returned to the sentencing court due to the offender's termination from

the program for failure to comply with the terms thereof, or the offender's sentence is completed.

(g) New Offenses. In the event a defendant be charged with a new felony offense while assigned to VTC, the new felony offense shall initially be assigned to the felony division. The assigned Division Judge may transfer the case to Division 57, only after that State Attorney's Office has filed formal charges and the case has been arraigned, if both the State Attorney's Office and the defense agree to the transfer.

(h) Termination from VTC. If a defendant or offender is terminated from VTC for any reason, the case shall be transferred back to the originally assigned Division Judge for further proceedings.

(i) Participants. The number of participants may be limited, at times, due to VTC resources.

This Administrative Order does not create a right of participation for veterans or servicemembers to participate in a veterans treatment court program. Further, this Administrative Order does not affect or alter the rights or responsibilities of any person who, on or before June 30, 2021, was admitted into and participating in VTC Division 57.

Administrative Order 21-04 and Administrative Order 16-14 are hereby rescinded and held for naught. This Administrative Order shall take effect, *nunc pro tunc*, July 1, 2021. To the extent that any portion of this Administrative Order may be construed as conflicting with any law, statute, or rule, the law, statute, or rule shall prevail.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, this 15th day of September 2021.

**NUSHIN G. SAYFIE, CHIEF JUDGE
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA**