

**THE ELEVENTH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY, FLORIDA**

**CASE NO. 24-1
(Court Administration)**

**ADMINISTRATIVE ORDER
NO. 24-09
(Rescinding AO No. 97-15/Case No. 97-1)**

**IN RE: ESTABLISHMENT OF THE
PROCEDURES REGARDING THE
ADULT FELONY DRUG COURT**

WHEREAS, the Chief Judge of the Eleventh Judicial Circuit, pursuant to Rule 2.215, 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”); and

WHEREAS, section 397.334, Florida Statutes, authorizes the establishment of treatment-based drug court programs to include pretrial treatment-based drug court programs authorized by section 948.08(6)(a), Florida Statutes, and post-adjudicatory treatment-based drug court programs as a condition of probation or community control pursuant to sections 948.01, 948.06, or 948.20, Florida Statutes; and

WHEREAS, in response to the overwhelming problem of drug related crime committed by nonviolent, drug-abusing defendants, the Miami-Dade Adult Drug Court was established 1989; and

WHEREAS, the mission of the Miami-Dade Adult Drug Court, is to provide treatment to drug addicted offenders involved in the court system as an alternative to incarceration by offering court-monitored treatment to decrease the prevalence and cyclical nature of drug addiction and drug related crime; and

WHEREAS, the Florida Supreme Court has adopted the Florida Adult Drug Court Best Practices, which are modeled on the National Association of Drug Court Professionals Adult Drug Court Best Practice Standards, and are intended to define clearly the practices that adult drug courts should implement in order to adhere to evidence-based principles that have been shown to improve overall court outcomes; and

WHEREAS, the Miami-Dade Adult Drug Court, uses multiple treatment resources to provide substance abuse services to drug court participants and is governed by federal laws of confidentiality, which are very protective of clients’ rights; and

WHEREAS, Section CF 51 of the of the Criminal Division of the Circuit Court was established to offer drug treatment and supervision to eligible defendants.

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 Section CF 51, the Miami-Dade Adult Drug Court.

1. **ESTABLISHMENT:** The Miami-Dade Adult Drug Court (ADC) has been established for circuit criminal cases, effective 1989.

ADC shall include therapeutic jurisprudence principles and adhere to the following 10 key components, recognized by and adopted by the Florida Supreme Court Treatment-Based Drug Court Steering Committee:

- (a) Drug court programs integrate alcohol and other drug treatment services with justice system case processing.
- (b) Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
- (c) Eligible participants are identified early and promptly placed in the drug court program.
- (d) Drug court programs provide access to a continuum of alcohol, drug, mental health, and other related treatment and rehabilitation services.
- (e) Abstinence is monitored by random testing for alcohol and other drugs.
- (f) A coordinated strategy governs drug court program responses to participants' compliance.
- (g) Ongoing judicial interaction with each drug court program participant is essential.
- (h) Monitoring and evaluation measure the achievement of program goals and gauge program effectiveness.
- (i) Continuing interdisciplinary education promotes effective drug court program planning, implementation, and operations.
- (j) Forging partnerships among drug court programs, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

2. **PRESIDING JUDGE:** A judge assigned to the Criminal Division shall preside over the Miami-Dade Adult Drug Court (ADC Judge) with the exclusive authority to establish the calendar for hearings, oversee treatment and compliance and encourage recovery. The

ADC Judge ultimately decides whether participants have met the requirements to complete the program.

3. **ELIGIBILITY CRITERIA:** Entry into diversion ADC shall be voluntary and only upon defendant's written agreement which shall include a statement that the defendant understands the requirements of the program and the potential sanctions for noncompliance.

Entry into any post adjudicatory treatment-based drug court program as a condition of probation or community control pursuant to s. 948.01, s. 948.06, or s. 948.20 must be based upon the ADC court's assessment of the defendant's criminal history, substance abuse screening outcome, amenability to the services of the program, total sentence points, the recommendation of the state attorney and the victim, if any, and the defendant's written agreement which shall include a statement that the defendant understands the requirements of the program and the potential sanctions for noncompliance.

To be transferred into ADC as a pretrial diversion or post adjudicatory participant, the defendant must meet the following criteria:

- (a) Minimum Legal Eligibility: Defendants currently charged with the following offenses are deemed eligible:
- A felony possession of a controlled substance, a purchase of a controlled substance, a felony involving a prescription fraud, or any other non-violent felony where there is a nexus between the defendant's substance use disorder and the current charge; and
 - If there is a victim and restitution involved, the victim's consent is required prior to admission into ADC, and restitution must be paid before completion of the drug court program.

Defendants who meet the above criteria, who have no more than two nonviolent felony convictions will be eligible for diversion ADC.

Defendants who meet the above criteria but who have more than two nonviolent felony convictions may be eligible for diversion ADC at the discretion of the ADC prosecutor.

Otherwise, defendants who meet the above criteria, who also have any other criminal record may be eligible for post adjudicatory ADC at the discretion of the ADC Judge.

If a case begins as a felony but is reduced to a misdemeanor, the ADC Judge will decide whether the defendant remains eligible to participate in the drug court program.

- (b) Clinical Eligibility: The defendant must be assessed by the Miami-Dade Court's intake specialist.

Except for defendant's charged with felony possession of a controlled substance, purchase of a controlled substance, or a felony involving a prescription fraud, the assessment must indicate the defendant suffers from substance use disorder and the Defendant must be amenable to treatment.

All defendants with an opioid or alcohol use disorder will receive education on Medications for Opioid Use Disorder (MOUD) and Medications for Alcohol Use Disorder (MAUD) including information on side effects. There is no predetermined duration for taking Methadone, Subutex, Buprenorphine, or Naltrexone; the length of treatment depends on the recommendation of the treating physician. Such defendants will not be compelled to use these medications, continue their use, or taper off medication against their wishes. Defendants participating in MOUD and MAUD will be assigned a drug court case manager and must provide the case manager with the name and contact information of their treating professional

- (c) Exclusion Criteria: A defendant charged with a violent first-degree felony or a felony punishable by life is excluded from ADC.

Current or prior offenses may disqualify potential participants if empirical evidence demonstrates they cannot be managed safely or effectively.

Barring legal prohibitions, if there is a nexus between the charge and the defendant's substance use disorder, the following potential participants will not be automatically excluded, rather, eligibility will be determined by the ADC Judge based on the treatment team's recommendations and the arguments of the attorneys:

- A defendant charged with the sale or delivery of a controlled substance, or with possession with intent to sell or deliver a controlled substance.
- A defendant charged with a violent third-degree felony.
- A defendant charged with a violent second-degree felony.
- A defendant charged with a non-violent first-degree felony.
- A defendant charged with drug trafficking.
- A defendant who has previously been adjudicated guilty or where adjudication has been withheld for any forcible felony, sale or possession with intent to sell controlled substances.
- A defendant who has previously been adjudicated guilty or where adjudication has been withheld for more than two prior felony convictions.

To be eligible for admission into ADC, empirical evidence must demonstrate that the defendant can be managed safely or effectively.

A defendant diagnosed with or suffering from severe cognitive, medical, or psychiatric condition that impedes their completion of the drug court program requirements may not be eligible. If the defendant has a mental health disorder, they must be stable or willing to stabilize by agreeing to and complying with prescribed medication. If a psychiatric and/or psychological evaluation determines that the illness is severe to the extent that the defendant cannot benefit from the services, the defendant will not be eligible for drug court. In such cases, the drug court will refer the defendant to the Mental Health Jail Diversion Program.

Effective January 1, 2017, a defendant who previously successfully completed the drug court program and is re-arrested for an eligible felony within twelve months of completion will not be automatically eligible for re-admission. Eligibility for readmission will be determined by the ADC judge.

4. REFERRAL AND SCREENING PROCESS:

- (a) Prior to Arraignment: If a case is referred to ADC before arraignment, the case shall be screened by the prosecutor assigned to ADC to determine if the defendant's record and current charges indicate preliminary legal eligibility for ADC, in accordance with the above legal eligibility requirements. The ADC judge will decide if cases are legally eligible. Cases deemed legally ineligible shall be transferred to a criminal trial division.

If the case is deemed legally eligible for ADC, the defendant will be provisionally admitted and given a court date for their arraignment hearing.

- (b) At the arraignment hearing, if the State Attorney's Office (SAO) has filed charges, in order to participate, the Defendant shall formally accept participation in ADC. Specifically, participants will meet with their attorney to review program requirements and, review and sign a participation agreement and a speedy trial waiver.
- (c) After the arraignment hearing, once formally accepted into ADC, the defendant shall undergo an evidence-based clinical assessment performed by an intake specialist, which will dictate the course of treatment for each participant.

Participants who decline to be interviewed or refuse the recommended level of care shall be transferred to a criminal trial division.

- (d) If a case is referred to the ADC after arraignment, the prosecutor assigned to ADC shall review the case to determine whether the defendant is legally eligible to participate, in accordance with the above legal eligibility

requirements. The ADC Judge will determine final eligibility. Cases deemed legally ineligible shall be transferred to a criminal trial division.

If the case is deemed eligible and the defendant voluntarily accepts the program, the defendant shall sign a speedy trial waiver and a participation agreement and shall undergo an evidence-based clinical assessment performed by an intake specialist, as indicated above.

5. **INTAKE/SCREENING:** After a participant has been arraigned and has agreed to participate in ADC, they shall be referred for an intake assessment. An intake specialist will receive the referral and contact the participant to schedule their assessment, which typically occurs within 7-10 days of arraignment.

The initial assessment is a one-time evaluation consisting of the following evidenced-based tools: Client Intake Form, Texas Christian University Drug Screen-V (**TCUDS-V**), Adverse Childhood Events (**ACE**), Mental Health Screening Form (**MHSF-III**), and Risk and Needs Triage (**RANT**), Generalized Anxiety Disorder 7-item (**GAD-7**), PTSD Checklist-Civilian Version (**PCL-C**), Patient Health Questionnaire-15 (**PHQ-15**), ASAM Placement tool and Trauma History Questionnaire (**THQ**). This comprehensive assessment allows the intake specialist to determine the appropriate “track” for the participant, based on their risk and needs factors.

Additionally, participants will sign a release at the time of intake consenting for the information to be shared with members of the treatment court team, including the judge.

Participants are categorized into one of four tracks: High Risk/High Need, High Risk/Low Need, Low Risk/High Need, or Low Risk/Low Need. The participant's track will determine the day of the week on which their court hearings will be scheduled. Each participant will be required to follow a phasing system (Phases 1-4). The specific phases depend on the track in which the participant has been placed.

6. **MONITORING ADC:** Case Managers assess, monitor, and report the progress of their clients to the court. The ADC Coordinator helps oversee the court's network of community-based treatment providers.

Drug testing is a crucial component of program integrity in ADC. Urine screening tests (immunoassays) are generally used to measure participants' abstinence progress and ensure accountability to the program's requirements. The Court may also use other specimens, including oral fluid, sweat patch, or hair testing, in appropriate cases. This is particularly useful when participants cannot test routinely due to illness or are on a travel pass, ensuring that no substance use goes undetected. If a participant disputes a positive screening test, the original specimen is re-analyzed at a laboratory using gas chromatography/mass

spectrometry (GC/MS), liquid chromatography/tandem mass spectrometry (LC/MS/MS), or a similarly calibrated test.

Equally important is alcohol testing, which employs tests, alcohol mouth swabs, breath testing, and electronic devices such as transdermal alcohol monitors. Breathalyzers or oral fluid tests are administered spontaneously when recent substance use is suspected.

Each week, the multidisciplinary team will meet to review participant progress, prepare for status hearings, and recommend actions to the Judge aimed at improving participant outcomes and performance, including potential consequences or sanctions.

7. **INCENTIVE AND SANCTIONS:** During regular court appearances, the ADC Judge may employ a system of graduated sanctions and rewards. This approach enhances each participant's accountability and supports their recovery process as they progress from short-term (proximal) to long-term (distal) goals.

For infractions related to proximal goals, more severe sanctions may be imposed immediately. For distal goals, sanctions progressively may increase in severity with successive infractions. Incentives which are meaningful to the individual, representing the efforts made to achieve each goal may be afforded to each participant.

Drug courts improve outcomes for participants by combining evidence-based substance use treatment with behavioral accountability. Participants are carefully monitored and receive escalating incentives for accomplishments and sanctions for infractions. Sanctions are used judiciously, with a maximum of five (5) days, and close coordination between the drug court team and jail staff to ensure uninterrupted medical treatment

8. **SUCCESSFUL COMPLETION OF ADC:** The participant will be eligible for successful completion upon meeting treatment plan goals including, achieving clinical stability, maintaining housing, pro-social activities, and a peer support network.

Participants are required to fully engage in all substance use treatment during all times of their enrollment in ADC. Any absences, whether excused or unexcused, including those for medical leave and travel passes granted by the court, must be made up to ensure continuous progress and successful completion of the drug court program.

Defendants may participate in ADC as Diversion Participants or as Post Adjudicatory Participants on Probation.

- (a) **ADC Diversion Participants:** At the end of the diversion period, the court shall consider the recommendation of the treatment team, as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant has successfully completed the program, if the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order that the charges revert to normal channels for prosecution. The court shall dismiss the charges upon a finding that the defendant has successfully completed the ADC program. If a participant is referred to ADC following any eligible felony offense for the ADC Diversion Program and successfully completes the program, the charges will be dismissed. Upon dismissal and provided they have no prior convictions of any kind; the participant may be eligible to petition to have their arrest record sealed or expunged (must meet all requirements in accordance with Florida law.)

For participants referred to the ADC Diversion Program for Low Risk/Low Need offenders, successful completion as reported by the provider will result in the same outcome as mentioned above for ADC Diversion Participants.

- (b) **Post Adjudicatory Participants:** if a participant is referred to ADC as a Post Adjudicatory Participant, meaning that successful completion of ADC is a condition of his/her probation, the probationary term shall be terminated successfully only upon successful completion of the ADC program along with all other conditions of probation.

- 9. PARTICIPANTS:** Due to limited resources, the Drug Court may need to pause referrals and/or restrict the number of participants at certain times. This decision shall be made by the ADC Judge.

This Administrative Order shall become effective immediately upon signing. Administrative Order No. 97-15/Case No. 1 is hereby rescinded and nullified. If any part of this Administrative Order conflicts with any law, statute, or rule, the law, statute, or rule shall prevail.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, this 23rd day of September 2024.

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