

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

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

**ADMINISTRATIVE ORDER
NO. 21-07**

**IN RE: ESTABLISHMENT OF THE
PROCEDURES REGARDING THE
CRIMINAL MENTAL HEALTH PROJECT
JAIL DIVERSION PROGRAMS**

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

WHEREAS, Article V, Section 7 of the Florida Constitution, the Chief Judge authorizes the establishment and continued maintenance of problem-solving Mental Health Courts in the Eleventh Judicial Circuit;

WHEREAS, the Miami-Dade County Jail currently serves as the largest psychiatric institution in Florida and contains nearly half as many beds serving inmates with mental illnesses as all state civil and forensic mental health hospitals combined;

WHEREAS, it has been determined the establishment of a Criminal Mental Health Project, Jail Diversion Programs (CMHP) in this Circuit would provide a means to divert eligible misdemeanor and felony defendants with Serious Mental Illnesses (SMI), or co-occurring SMI and substance use disorders, away from the criminal justice system into community-based treatment and support services;

WHEREAS, the CMHP is made up of an extensive collaboration of dedicated partners and stakeholders, including: the State Attorney’s Office (SAO), the Public Defender’s Office, the Miami-Dade County Department of Corrections and Rehabilitation, the Miami-Dade Homeless Trust, the Florida Department of Children and Families, the South Florida Behavioral Health Network, the Social Security Administration, Jackson-Memorial Hospital-Public Health Trust, law enforcement agencies, and public and private community mental health providers;

WHEREAS, the establishment and continued maintenance of the CMHP is subject to policies and procedures and is subject to any CMHP Program Manuals, as approved by the Chief Judge;

WHEREAS, the Jail Division of the County Criminal Court was established to divert eligible misdemeanor defendants with SMI from the criminal justice system into appropriate treatment environments without sacrificing community protection and safety for all citizens;

WHEREAS, Section CF 55 of the Criminal Division of the Circuit Court was established to divert eligible felony defendants with SMI from the criminal justice system into appropriate treatment environments without sacrificing community protection and safety for all citizens;

WHEREAS, this Court, in conjunction with the above various community stakeholders has established criteria to identify defendants charged with misdemeanors and felonies whose cases may be eligible for enrollment in CMHP as a consequence of a SMI;

WHEREAS, this Administrative Order also serves the purpose of simply formalizing into writing the procedures of the CMHP in the Eleventh Judicial Circuit, which has been successfully operational since it was established in the year 2000;

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 CMHP Jail Diversion Programs:

- (a) **Establishment.** The CMHP Jail Diversion Programs have been established for county criminal cases, effective 2000, and circuit criminal cases, effective 2008.
- (b) **Presiding Judge.** A judge assigned to the Circuit Criminal Division shall preside over the Felony Jail Diversion Program ("FJDP Judge") with the exclusive authority to establish the calendar for FJDP hearings. A judge assigned to the County Criminal Division shall preside over the Misdemeanor Jail Diversion Program ("MJDP Judge") with exclusive authority to establish the calendar for MJDP hearings. A judge assigned to the Domestic Violence Division shall preside over the Domestic Violence Jail Diversion Program ("DVJDP Judge") with exclusive authority to establish the calendar for DVJDP hearings.
- (c) **Eligibility Criteria.** To be transferred into any of the CMHP Jail Diversion Programs, the defendant must meet all the following criteria:
 - i. **Clinical Eligibility:**
 - a. Must be diagnosed with a primary diagnosis of serious mental illness, i.e. schizophrenia (or other psychotic disorders), schizoaffective disorder, bipolar disorder, major depression, or PTSD; and

b. Voluntarily agree to mental health or co-occurring treatment and services

ii. **Legal Eligibility:**

a. Most serious current charge is a third-degree felony, although some second-degree felonies are eligible. (excluding carrying a concealed weapon, child abuse, and aggravated assault with a firearm) with no more than three prior non-violent felony convictions; or

b. Individuals with more serious past or present legal involvement may be considered by the SAO for participation on a case by case basis; and

c. NOT or NO LONGER adjudicated incompetent to proceed (ITP)

iii. **Program Criteria:**

a. Must be identified as Moderate, High or Very High Risk/Need as determined by empirically validated screening and assessment tools during the intake process; and

b. Voluntarily agree to random Drug Screening as requested.

(d) **Referral and Screening Process.** To determine the appropriate level of treatment, support services, and community supervision, each program participant is assessed regarding Mental Health, Substance Use and Criminogenic Risks and Needs. A two-page summary is developed that is used to create an individualized transition plan aimed at reducing criminal justice recidivism and improving psychiatric outcomes, recovery, and community integration.

Participants are referred to the CMHP through several sources including Jail In-Reach, the Public Defender's Office, the State Attorney's Office, private attorneys, judges, corrections health services, and family members.

At the time an individual is accepted into the CMHP the State Attorney's Office informs the Court of the plea the defendant will be offered contingent upon successful completion.

Notwithstanding the criteria set forth above, it is anticipated that a defendant who does not meet the above criteria may occasionally be deemed an acceptable candidate. In such cases, acceptance into any of the CMHP Jail Diversion Programs is conditioned upon the consent and recommendation of the State Attorney's Office.

(e) **Monitoring.** All participants are assisted in accessing community-based services and supports, and their progress is monitored and reported back to the Court by the assigned CMHP Division Staff.

(e) **Termination.** If a defendant voluntarily withdraws from participation, or the Court, after a duly noticed hearing, finds the defendant to be non-compliant with the conditions of the CMHP, the case will be transferred by the Clerk back to the originally assigned trial division judge for further proceedings.

(g) **Completion.** Upon successful participation and completion of the CMHP, a defendant may, in certain cases, be permitted to withdraw his or her plea, and the State Attorney's Office may reduce or dismiss the charge or charges.

(f) **Participants.** The number of participants may be limited, at times, due to CMHP resources.

This Administrative Order shall become effective immediately upon signing. 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 28 day of April 2021.



**BERTILA SOTO, CHIEF JUDGE
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA**