

IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT, IN
AND FOR BROWARD COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO.VI-00-I-1

IN RE:

CREATION OF A MENTAL HEALTH
COURT SUBDIVISION WITHIN THE
COUNTY CRIMINAL DIVISION

In accordance with the authority vested in the Chief Judge by Rule 2.050, Florida Rules of Judicial Administration, it is

WHEREAS, this Circuit has recognized that the creation "specialized courts" within other divisions of the Court has enhanced the expediency, effectiveness and quality of Judicial Administration;

WHEREAS, it is essential that a new strategy be implemented to focus upon individuals arrested for misdemeanor offenses who are mentally ill or mentally retarded in view of the unique nature of mental illness and mental retardation, and the need for appropriate treatment in an environment conducive to wellness and not punishment, as well as the continuing necessity to insure the protection of the public, and

WHEREAS, there is a recognized need to treat defendants who desire such treatment and are qualified to participate in the Court before a Judge learned in the field of mental health who possesses a unique understanding and ability to expeditiously and

efficiently move people from an overcrowded jail system into the mental health system, without compromising the safety of the public, and,

WHEREAS, the rapidly increasing number of misdemeanor cases involving mentally ill or mentally retarded defendants has contributed to congesting and overburdening of the court dockets in the county court criminal division, as well as a jail overcrowding, and,

WHEREAS, a centralized Mental Health program would increase the efficiency of the criminal court system in this circuit, and

WHEREAS, a continuing shrinkage of mental health care resources necessitates that such resources be centralized into a system, before specialized personnel, thereby making them more accessible, and

WHEREAS, it is necessary that this circuit utilize available community resources and support, to establish an individualized judicial process that will, where appropriate, tailor treatment rather than punishment for the mentally ill and mentally retarded misdemeanant,

WHEREAS, this Circuit has recognized that the administration of such treatment or program is most effective if the defendants qualified to participate in such court do so of their own free choice and volition, and this Circuit specifically recognizes their ability to make that choice and decline entry into the court if they so choose,

IT IS NOW THEREFORE;

ORDERED that:

AS previously ordered in Administrative Order VI-97-1A, a part time Mental Health Subdivision shall be operational within the County Court Criminal Division to hear cases involving defendants arrested for misdemeanors who are suffering from mental illness or are mentally retarded, with the exception of those arrested or charged with a Domestic Violence related offense and Driving Under the Influence. Defendant's charged with Battery, a violent misdemeanor, may be admitted with the victim's consent. Defendant's charged with violent misdemeanor offenses which occur at mental health treatment facilities shall be assigned to the Mental Health Division with the victim's consent of obtainable. Defendants arrested for or charged with a nonviolent felony or a violent felony where the victim is not harmed, and, with the consent of the victim, have their charges reduced or refiled by the State to a misdemeanor offense in order to allow the defendant the opportunity to participate in said court, shall also be eligible for such.

The Clerk of the Court shall assign or transfer all non-violent misdemeanor cases, including traffic criminal who preliminarily qualify for admission to the program. The defendants will be preliminarily qualified at any point in the proceedings, if they previously or currently have been diagnosed by a qualified mental health expert as suffering from mental illness or mental retardation or have manifested obvious signs of mental illness or mental retardation during arrest or confinement or before any court and they desire to be considered for such

admission. Motions for transfer into the program may be made sua sponte by any court or ore tenus, in open court, with the defendant present if feasible, by the Defense or the State accompanied by documentation, testimony, or any other specific evidence that would convince the court in support thereof, and, after referral by the previous court, will be heard by the Judge, assigned to the Mental Health Division, who shall make the final determination of a defendant's eligibility. Any motion to transfer a defendant into the program, unless specifically objected to by defense counsel, shall be deemed a waiver of the defendant's right to a speedy trial and formal discovery, other than the providing of documentation relating to defendant's mental health status and all available statements and police reports. If the assigned Judge determines that a defendant is mentally ill or mentally retarded, she or he is eligible for the program. If a defendant is not mentally ill or mentally retarded, or the defendant indicates that she or he no longer desires participation in the program, or at any time desires the case be set for trial, or for hearing or motion to determine legal issues unrelated to mental health, or if the Court determines that the defendant is no longer sufficiently participating in or benefiting from the program, or if the defendant was originally arrested for or charged with a felony and their charges were reduced or refiled by the State to a misdemeanor offense in order to allow the defendant the opportunity to participate in said court and the Court or the State determines that the defendant is no longer sufficiently participating in or benefiting from the

program, she or he is not eligible for the program. If a defendant is determined to be ineligible or no longer eligible for the program, the case shall be transferred back to the original division or, if it had not been previously assigned to another division, randomly assigned by the Clerk of the Court to the appropriate Criminal Division. If the defendant was originally arrested for or charged with a felony, and the defendant is determined to be ineligible for the program, the State may refile the case to a felony and the case shall be transferred as indicated above. Thereupon, the defendant's right to a speedy trial and formal discovery may be reinstated upon a written demand. If a defendant is eligible for the program, all of the defendant's eligible misdemeanor cases, including violations of misdemeanor probation, shall be consolidated and transferred to the assigned mental health Judge. Once a defendant is accepted into the program, appropriate waivers of confidentiality shall be obtained.

IT IS FURTHERMORE ORDERED that the Sheriff of Broward County will make all reasonable efforts to secure the attendance of all Defendants whose cases are to be heard before the Court, unless effectuating such will cause a danger to the public or the Defendants themselves.

IT IS FURTHERMORE ORDERED that Judge Ginger Lerner-Wren is hereby designated as the Judge assigned to this special unit. In that capacity, Judge Lerner-Wren will be responsible for administering the program and coordinating the role of the judiciary with the functions of the Department of Children and

Family Services, Henderson Clinic, Nova Southeastern Outpatient Care Clinic, private mental health care providers, County Court Probation and Broward County Court Alternatives and Pretrial Services Program. Judge Lerner-Wren shall be responsible for magistrating all defendants preliminarily determined to be eligible for the program who have not magistrated previously. The holding of said magistrate hearing shall constitute notice to the State and Defense, and the above mental health programs, providers and services to obtain all necessary criminal history and mental health history and input from pertinent victims and witnesses. Judge Lerner-Wren will still maintain her caseload in her regular County Court Division while serving as Judge of the Mental Health Subdivision.

IT IS FURTHERMORE ORDERED that Ginger Lerner-Wren is hereby appointed as an acting Circuit Court Judge in all matters relating to Chapters 393, 394, and 397, Florida Statutes. In the absence of Judge Lerner-Wren, the Honorable Mark A. Speiser, Circuit Judge, shall serve as her alternate, to enter orders which are necessary, fit and proper, and/or as required by law.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida on this the 4th day of August, 2000.

/s/DALE ROSS
DALE ROSS, CHIEF JUDGE