

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY**

ADMINISTRATIVE ORDER NO. 2-74.0

**IN RE: CREATION OF THE POLK COUNTY POST
ADJUDICATION DRUG COURT PROGRAM**

WHEREAS, in §397.305(1), Florida Statutes, the Florida Legislature finds substance abuse is a major health problem that leads to profoundly disturbing consequences, including chronic addiction and criminal behavior; and

WHEREAS, Chapter 397, Florida Statutes, in its entirety, establishes the provision of substance abuse services within the State of Florida; and

WHEREAS, §397.334, Florida Statutes, establishes within the State of Florida “treatment-based drug courts”; and

WHEREAS, the Tenth Judicial Circuit of Florida has secured Edward Byrne Memorial Justice Assistance Grant Program (hereinafter “JAG”) funds to expand drug courts in Florida to reduce state prison and local jail admissions; it is therefore,

ORDERED AS FOLLOWS:

Pursuant to Article V, Section 7, Florida Constitution, and §397.334, Florida Statutes, there is created within the Tenth Judicial Circuit Court of Florida a Polk County Post Adjudication Drug Court Program (hereinafter “PADC Program”) for felonies and misdemeanors, both subdivisions of the Drug Court in the Polk County Criminal Court.

The PADC Program for felonies will be overseen by the judge presiding in the VOP/Drug Court division assignment. The presiding judge is authorized and assigned to accept pleas to misdemeanor and felony cases in accordance with the criteria established for acceptance into the PADC Program.

The PADC Program for misdemeanants will be overseen by a county court judge assigned by the County Court Administrative Judge.

At the time of arraignment, or during any stage of the criminal prosecution process, defendants will be referred by the Office of the State Attorney and admitted based on established eligibility criteria and a violation of community control or probation due to a failed or suspect drug screen. The PADC Program may also accept probationers who have violated their supervision due to substance abuse, who otherwise qualify for admission based on the same

criteria utilized for participants admitted at time of original disposition. The requirements for participation in the PADC Program are set forth in §397.334(3)(a), Florida Statutes.

Once referred, participating defendants will be screened for eligibility by the Post Adjudication Drug Court Team and given a comprehensive assessment. At a minimum, the Post Adjudication Drug Court Team will consist of the judge presiding over the PADC Program, drug treatment counselors, case managers, and probation officers. The team may include assistant public defenders, and assistant state attorneys.

Placement into the program will be based on substance abuse screening outcomes as determined by the criteria of the ASAM (American Society of Addiction Medicine). After the defendant has been referred and qualified for the program, a Drug Court specialist will provide the defendant with a *Post Adjudication Contract*. The PADC Program will be a condition of the contract and also of the defendant's plea.

Defendants must be fully advised of the purpose of the program by the Public Defender's Office or other defense counsel before they agree to enter the program. Prior to the Court's acceptance of the defendant's plea, any communication made by the defendant in court to the Post Adjudication Drug Court Team is privileged communication. All federal and state statutes and rules relating to confidentiality shall be applicable. In addition, subject to all federal and state statutes, no information, whether recorded or not, relating to a person referred for evaluation or accepted for participation may be used to initiate or substantiate any criminal charges against said person or used to conduct any criminal investigation of said person. Information relating to a failed drug test of any participant may be used during a proceeding regarding an alleged violation of probation, provided such information is otherwise admissible as evidence.

Pursuant to §397.431(5), Florida Statutes, the PADC Program has established a fee system based upon each defendant's ability to pay. Where resources and space are sufficient, individual access to services in the PADC Program will not be denied solely on the basis of the individual's inability to pay.

Participating defendants will be required to pay an initial assessment fee of \$140.00 in addition to \$75.00 per month in program costs for the privilege of participating in the Post Adjudication Drug Court Program. Furthermore, defendants may be required to pay the cost of drug screens.

For felony defendant's, participation in the PADC Program will suspend the costs of supervision normally paid by defendants to the Department of Corrections for the duration of defendant's participation in the program.

It is incumbent upon the PADC Program to collect and report client-level data sufficient to meet reporting requirements of the JAG grant. Client-level data will be captured and reported timely to the grantor or the Office of the State Courts Administrator, as appropriate. Client-level data to be collected and reported include:

- Number of defendants offered participation in the program;
- Number of eligible defendants admitted and not admitted to the program;
- Number of prior convictions and adjudications withheld for each participating defendant;
- Demographic characteristics;
- Treatment compliance;
- Completion status and reasons for failure to complete;
- Offenses committed during treatment and sanctions imposed;
- Frequency of court appearances; and
- Units of service provided.

DONE and **ORDERED** on this _____ day of December, 2009, *nunc pro tunc* to November 5, 2009.

J. DAVID LANGFORD
Chief Judge

Copies:

All Circuit Judges

All County Judges

Polk County Clerk of Court

State Attorney's Office

Public Defender's Office

Office of Regional Conflict Counsel

Drug Court Manager

Florida Department of Corrections

Polk County Probation

Anne Weeks

Julie Nelson

Bar Mailing