

IN THE CIRCUIT COURT OF  
THE NINETEENTH JUDICIAL  
CIRCUIT IN AND FOR INDIAN  
RIVER, MARTIN, OKEECHOBEE  
AND ST. LUCIE COUNTIES

A D M I N I S T R A T I V E   O R D E R   9 3 - 1 3

RE:   PRE-TRIAL DRUG INTERVENTION PROGRAM

WHEREAS the Legislature has created F.S. §948.08(6)(a) and

WHEREAS the Legislature has mandated that certain first-time drug offenders must be placed in a pre-trial diversionary program, it is hereby

ORDERED that pursuant to that statute and Fla.R.Jud.Admin. 2.050, the Pre-Trial Intervention Drug Program is created for the Nineteenth Judicial Circuit as follows:

1)   Eligibility:   All arrestees that fall within the group mandated by F.S. §948.08(6)(a) are eligible.

2)   Intake:   The Program's intake form shall be one approved by the Chief Judge.   The Department of Corrections (hereinafter the Department) shall prepare the multi-copy form containing sufficient duplicate copies as indicated on the bottom of the form.   The Department shall be sure that each booking desk in the Circuit has a continual and sufficient supply of the forms.

The booking officer shall complete the form for each person arrested for the crime of purchase or possession of a controlled substance under F.S. Chapter 893.   The arrestee shall be provided with his/her copy of the form at the booking desk.   The booking agency shall provide the other copies of the form as indicated, within (24) hours of booking.   In addition, the booking agency

shall also transmit by facsimile a copy of each intake form, along with a copy of the first page of the arrest affidavit to the Department at (Martin County (407) 221-4999, St. Lucie County (407) 595-1320, Indian River County (407) 778-5076 or Okeechobee County (813) 467-8637) attention: "PTI Drug Program", once each day.

The Department shall perform its initial screening of the arrestee to determine eligibility for the Program and shall notify the Office of the State Attorney, the Office of the Public Defender and the arrestee of eligibility or ineligibility within (7) business days of receiving the intake form. The Department shall also file a copy of the notification with the Clerk of the Court.

The arrestee shall sign the PTI contract within (10) business days of notification or the Office of the State Attorney may assume that the arrestee is not interested in entering the Program.

3) The Office of the State Attorney and the Office of the Public Defender have agreed to waive the time deadlines for filing of formal charges under Fla.R.Cr.P. 3.133 and 3.134 to eliminate the necessity of filing an Information. If an Information has been filed, it will not be nolle prossed upon entry into the Program. If one has not been filed, the case will not be "no informationed".

4) Evaluation: Each arrestee approved for this Program shall undergo a substance abuse evaluation at the direction of the PTI officer. The evaluation shall be conducted by an evaluator contained on the list of approved evaluators held by the Court Administrator. The Department shall refer arrestees to the evaluators on a rotational basis without any showing of preference.

The evaluator shall determine what specific services, education and treatment are necessary for the arrestee. Those services, education and treatment requirements shall be specified as part of the PTI contract in each case. No one shall enter the Program without first participating in the evaluation.

5) The Contract: The Contract shall contain the minimum provisions as listed in the form contract approved by the Chief Judge. No deletions in the form contract shall be made without the approval of the Chief Judge. The contract in an individual case may contain additional and more stringent requirements.

If the Indian River Community College establishes a drug education course for this Program, attendance at, and completion of, that course shall be included as a condition of all contracts in this Program.

6) Drug Abuse Trust Fund: Each PTI contract shall include a requirement that the offender pay an assessment to the County Drug Abuse Trust Fund for the county in which the case arises. The Department shall set the amount based on the arrestee's ability to pay, and shall include that amount in the individual contract.

7) Once the contract is signed, the original will be filed with the Clerk, and the case shall be placed on a suspension docket. The case will be removed from the suspension docket for any of the following occurrences:

- a) if the arrestee violates the contract and the State files an Information;
- b) if the arrestee violates the contract and the State files a motion for status review; or

- c) upon the filing of a nolle proesse or "no information".

The Department will notify the State and Defense of all violations of the PTI contract. It will be up to the State, as the party who would have to prove the violation, to determine if it wishes to pursue the violation. If so, the State may file an Information or motion for review. The State and Defense may avoid the violation by agreement or contract modification.

- 8) The Office of the State Attorney may petition the Court to preclude admission to the Program for any arrestee who falls within the "dealing and selling" exclusion contained in the statute.

- 9) Evaluators and Programs: The Court Administrator shall maintain a list of approved evaluators and approved educational/treatment programs. The evaluators shall make their educational and treatment recommendations for the arrestee based on the services available from the providers on the approved list.

Evaluators and educational/treatment programs may be added to the approved list upon request and approval by the Chief Judge. Evaluators and educational/treatment programs must be in compliance with all Federal and State statutes, rules and regulations, and must remain in compliance therewith.

Evaluators may not self-refer and may not recommend that an arrestee be referred to any person or entity that they are employed by, or that are owned, in whole or part, by themselves or any principals of the entity that they are associated with. The evaluators and agencies that participate in this Program may not seek or obtain referral fees, engage in fee splitting, or any

similar conduct, as it relates to the evaluation, education or treatment of any arrestee in the PTI Drug Program.

Referrals to treatment and educational programs from the list shall be, to the extent possible, on a rotational basis.

(This is not intended to create an employer-employee relationship or agency relationship between the court system and any evaluator or provider.)

10) F.S. §948.08(6)(c)(2) mandates dismissal of the case for any arrestee who successfully completes this Program. Beginning on the first of the month after the first graduate successfully completes this Program, and on the first of each month thereafter, the Department shall submit to the Presiding Judge a motion to dismiss the case for each successful graduate. The motion shall be in a format approved by the Chief Judge.

11) Although this Program is structured for intake at arrest, this shall not prevent Defense Counsel from petitioning the presiding judge for admission into the program. Nor shall this prevent a presiding judge from referring a case to the Program.

12) There is hereby created a PTI Drug Program Advisory Committee to oversee this Program and make recommendations for modifications. The membership shall consist of the Chief Judge or his designee, the State Attorney, or his designee, the Public Defender, or her designee, the Court Administrator, and a representative of the Department of Corrections.

13) The Court Administrator shall provide the following statistics quarterly to the Advisory Committee and Chief Judge:


- a) the number of participants who successfully completed the Program that quarter; and
- b) the number of participants who left the Program unsuccessfully that quarter. The statistics in this category shall be further delineated by reason: new offense, new drug offense, drug usage, failure to comply with other contract terms.

The Department shall keep the above statistics and provide them to the Court Administrator in a fashion that enables the Court Administrator to file this report.

14) Custody Status: Once the PTI contract is fully executed, the arrestee, if in custody, shall be released on a conditional ROR. Should the arrestee violate the terms of the PTI contract, upon motion by the State, the arrestee may be placed back in his/her original custody status.

15) This Program shall take effect January 1, 1994.

DONE AND ORDERED this 21 day of December, 1993, at Fort Pierce, Florida.

  
L.B. VOCELLE, CHIEF JUDGE