

IN THE CIRCUIT COURTS OF THE 19TH JUDICIAL DISTRICT WEST

ADMINISTRATIVE PLAN

WHEREAS, the Arkansas Supreme Court has adopted Administrative Order No. 14, as amended; and

WHEREAS, said Administrative Order allows for the division of cases among the five Circuit Judges with criminal and juvenile cases permitted to be separate; and

WHEREAS, the Circuit Judges of the 19th Judicial District West have taken into account the physical facilities, personnel available, historical statistical data from the Administrative Office of the Courts and the Benton County Circuit and Probate Clerks, the projected case load of each Judge, the experience and abilities of the individual Judges to promote prompt and efficient resolution of cases; and

WHEREAS, 2007 Ark. Acts, No. 663, provides that the District Court of the 19th West Judicial District shall be subject to the superintending control of the Circuit Court of the 19th West Judicial District; and

WHEREAS, effective January 2, 2009, there will be Six (6) Divisions of the 19th West Judicial District; and

WHEREAS, effective January 2, 2009, the following Judges will have been duly elected and qualified to the designated Divisions of Circuit Court in Benton County:

Robin F. Green	Division One
David Clinger	Division Two
Jay Finch	Division Three

John R. Scott Division Four

Xollie Duncan Division Five

R. Douglas Schrantz Division Six

IT IS, THEREFORE, CONSIDERED, ORDERED AND AGREED by the Circuit Judges of the 19th Judicial District West, as follows:

I.

DIVISIONS

The existence of Divisions shall not be construed to limit or preclude Judges from hearing other cases that may come before them. At times when one or more of the Judges may be absent or unavailable another Judge may be called upon to act upon matters assigned to another Division of Circuit Court.

II.

ASSIGNMENT OF CASES

1. **CRIMINAL CASES**: Criminal cases shall be randomly and equally assigned to Divisions One and Two.
2. **JUVENILE CASES**: Juvenile cases shall be and hereby are assigned to Division Three.
3. **DOMESTIC RELATIONS AND PROBATE**: Domestic Relations and Probate cases shall be randomly and equally assigned to Divisions Four, Five, and Six, provided, however, that Probate and Domestic Relations cases involving a child or party in an open and pending Juvenile proceeding shall be filed in or transferred to Division Three.

4. CIVIL CASES: The Circuit Clerk shall not accept, for filing, any original actions seeking a remedy pursuant to 2007 Ark. Acts, No. 1004. All other Civil cases shall be randomly assigned as follows, to-wit:

Division One	10%
Division Two	10%
Division Three	14%
Division Four	22%
Division Five	22%
Division Six	22%

The total projected caseload for each Division based upon the above proposed allocation of cases is attached hereto as Exhibit A. Estimated weighting of cases accounts for the differences in case numbers.

5. RECUSALS AND TRANSFERS:

- a. No case shall be transferred from one division to another solely on the basis that the case includes issues and/or remedies sounding in both law and equity.
- b. Recusals from Criminal, Domestic Relations, and Probate cases shall first be transferred to the other Division assigned to hear like cases. In the event both Divisions assigned to hear a criminal case should recuse, the case shall be transferred to Division Six. If Division Six recuses on a criminal case, it shall be randomly assigned to Divisions Three, Four and Five. In the event all Divisions assigned to hear Domestic Relations and Probate cases recuse, the Domestic Relations and Probate case shall be transferred to Division Three. If Division Three recuses on a Domestic Relations or Probate case, it shall be randomly assigned to Divisions One and Two. Recusals from civil cases shall be reassigned in the manner provided for the initial assignment of civil cases.
- c. Recusals from Division Three (on Juvenile cases originally assigned to that Division) shall be assigned as follows: Juvenile

delinquency and criminal cases shall be reassigned in the manner provided for the initial assignment of criminal cases between Divisions One and Two; FINS and Dependency/Neglect cases shall be reassigned in the manner provided for the initial assignment of Domestic Relations and Probate cases among Divisions Four, Five, and Six.

- d. A Judge recusing from a case or transferring a case shall cause an Order of Recusal and/or Transfer to be entered of record. The clerk of the court shall cause one of the markers (marbles) of the recusing or transferring Court to be returned to the appropriate "selection container" to be drawn again in the random selection method. (See Section III. Random Assignment). This shall not apply to transfers from Division Three to Divisions One or Two of juvenile delinquency cases for disposition as an adult criminal case.

- e. For recusals or transfers of domestic relations cases from Division Four, Five, or Six to Division Three, the clerk shall take the last FINS case or dependency neglect case assigned to Division Three and that case shall be automatically reassigned to the recusing or transferring court. Notwithstanding the above provision, if the last FINS case or dependency neglect case has been set for trial, the clerk shall take the next FINS case or dependency neglect case assigned Division Three and that case shall be automatically reassigned to the recusing or transferring court. The clerk shall strike through the Division number "3" on the file and replace it with the Division number of the recusing or transferring court. The clerk shall include the following form in the case filed of the reassigned case to explain the reassignment:

"This case is reassigned to Division _____ pursuant to the Administrative Plan of the Nineteenth Judicial District West, due to the recusal or transfer of case number _____ from Division _____.

Deputy Clerk

Date"

For recusals or transfers from Division Three, the clerk shall take the last domestic relations case drawn by the receiving court and that case shall be automatically reassigned to Division Three. Notwithstanding the above provision, if the "last domestic case

drawn by the receiving court” has already been set for hearing, the clerk shall take the next domestic relations case drawn by the receiving court and that case shall be automatically reassigned to Division Three and the marble drawn for that receiving court shall be placed back in the jar. The clerk shall strike through the Division number on the file and replace it with a “3”. The clerk shall include the following form in the case file of the reassigned case to explain the reassignment:

“This case is reassigned to Division Three pursuant to the Administrative Plan of the Nineteenth Judicial District West, due to the recusal of Division Three in case number _____
_____.

Deputy Clerk

Date”

- f. The Clerk shall maintain a Recusal and Transfer Orders Book in which a copy of each and every Order of Recusal and/or Transfer shall be recorded and preserved in chronological order according to the Division of court recusing or transferring the case and the Division to which the case is assigned or transferred.
- g. The Circuit Judges are authorized during November and December of 2008 to instruct the Clerks to take the administrative steps necessary to create a docket of cases for Division Six.
- h. In the event all Judges in the 19th Judicial District West shall recuse from a case, the Administrative Judge shall notify the Chief Justice of the Arkansas Supreme Court for appointment of a Special Judge to hear such case. All such cases shall be transferred to Division Nine, and a copy of the recusals as well as the notification from the Administrative Judge to the Chief Justice shall be placed in the Recusal and Transfer Orders Book by the Clerk of the Court.
- i. Pursuant to ARK. CODE ANN. § 16-98-303(d)(3), the Administrative Judge has designated Division Three to conduct Drug Court. The circuit clerk is hereby instructed to indicate in the administrative records the transfer of a criminal case to Division Three for Drug Court once the order from Division Three approving the criminal defendant’s case being transferred to Drug Court is entered by Division Three. If a defendant is terminated

from Drug Court, the criminal case shall be returned to the Division where it originated.

III.

RANDOM ASSIGNMENT

The assignment of cases shall be random. The Clerks shall use the colored marble or marker system to ensure random selection until the Administrative Office of the Courts provides suitable software for random assignment by computer. The Clerk is directed not to draw a colored marker to determine which Division the case will be assigned until such time as the file mark of the Clerk has been affixed and shall not draw more than one marker at a time. The Clerk making the draw from the container shall not look at the markers to be drawn, but is to make the draw in the blind. The Clerk is prohibited from making the Division assignment known until the colored marker designating the Division has been drawn and the number affixed to the pleading initiating the case. The Clerk is to maintain a separate criminal, civil, domestic relations, probate, and juvenile docket for each of the respective numerical Divisions.

IV.

ADMINISTRATIVE JUDGE

The Administrative Judge shall be selected on or before the first day of February, unanimously and by secret ballot every two years beginning at the end of the term of the current Administrative Judge. The term of the current Administrative Judge ends January 31, 2009. Any vacancy in the office shall be dealt with as provided in Administrative Order 14 as amended.

The Administrative Judge shall, in general, perform the duties as required under Administrative Order 14, as amended. The Administrative Judge shall, specifically perform the following duties:

1. Communicate with the Chief Justice as necessary regarding administration of the Plan in the 19th Judicial District West. Copies of all written communication sent or received shall be provided by the Administrative Judge to the other five Judges in the Circuit. In the event the communication is not in writing, a summary of the communication shall be provided to the other five Judges in the Circuit by the Administrative Judge.
2. Insure the Administrative Plan and its implementation is consistent with Amendment 80 and the orders of the Supreme Court.
3. Insure that the business of the Court is apportioned among the Circuit Judges as equally as possible, and that case assignments are made in accordance with the Administrative Plan. The Administrative Judge shall have the authority to enter orders and otherwise require the Circuit Judges in the district to perform the duties set out by the Arkansas Supreme Court in Rule 8.1 of the Arkansas Rules of Criminal Procedure when he deems it appropriate.
4. Call meetings to modify the Administrative Plan should the case apportionment become unequal. Modification of the Administrative Plan's apportionment of cases shall be done only by majority vote of the six Judges.
5. Compute, develop, and coordinate case statistics and/or other management data for the 19th Judicial District West.

6. Submit the Administrative Plan of the 19th Judicial District West to the Supreme Court by July 1 of alternate years beginning with 2003.
7. Call meetings on his own accord or at the request of any other Judge.
8. Resolve any conflicts that may arise over the scheduling of jury-equipped courtrooms by Divisions Three with Divisions One, Two, Four, Five, and Six. The matter will be submitted to the Administrative Judge only after the Judges, through their case coordinators, have attempted to schedule jury trials as requested by Division Three and have not been able to complete such scheduling to the satisfaction of the Judges.

IT IS SO ORDERED AND AGREED THIS 26th day of June, 2008.

Tom J. Keith, Division One

David S. Clinger
David Clinger, Division Two

Jay Finch, Division Three

John R. Scott
John R. Scott, Division Four

Xollie Duncan
Xollie Duncan, Division Five

CERTIFICATION

The undersigned, as Administrative Judge of the 19th Judicial District, certifies that, in accordance with Amendment 80 and Administrative Order 14, as amended, the foregoing Administrative Plan results in an equal apportionment of caseload among the Judges of the District, requires random assignment of cases, and takes into consideration the physical facilities, financial constraints, personnel available, experience and abilities of the individual Judges in the 19th Judicial District, and complies with the letter and the spirit of Amendment 80 and Administrative Order 14, as amended.



John R. Scott
Administrative Judge

EXHIBIT A

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DIVISION ONE KEITH	DIVISION TWO CLINGER	DIVISION THREE FINCH	DIVISION FOUR SCOTT	DIVISION FIVE DUNCAN
<u>2004</u> Crim. 1116 Civ. 368 Total 1484	<u>2004</u> Crim. 1161 Civ. 385 Total 1546	<u>2004</u> Juv. 1018 Civ. 382 Dom. 4 Crim. 146 Prob. 30 Total 1580	<u>2004</u> Dom. 1010 Civ. 391 Prob. 288 Total 1689	<u>2004</u> Dom. 992 Civ. 400 Prob. 292 Total 1684
<u>2005</u> Crim. 1422 Civ. 443 Total 1865	<u>2005</u> Crim. 1205 Civ. 446 Total 1651	<u>2005</u> Juv. 1199 Civ. 448 Dom. 3 Crim. 90 Prob. 21 Total 1761	<u>2005</u> Dom. 1056 Civ. 437 Prob. 315 Total 1808	<u>2005</u> Dom. 1023 Civ. 450 Prob. 315 Total 1788
<u>2006</u> Crim. 921 Civ. 519 Total 1440	<u>2006</u> Crim. 959 Civ. 518 Total 1477	<u>2006</u> Juv. 1259 Civ. 528 Dom. 4 Crim. 33 Prob. 24 Total 1848	<u>2006</u> Dom. 1015 Civ. 530 Juv. 5 Prob. 307 Total 1857	<u>2006</u> Dom. 973 Civ. 532 Juv. 8 Prob. 291 Total 1804
<u>2007</u> Crim. 957 Civ. 509 Dom. 1 Total 1467	<u>2007</u> Crim. 951 Civ. 522 Juv. 1 Total 1474	<u>2007</u> Juv. 1251 Civ. 522 Dom. 4 Crim. 6 Prob. 23 Total 1806	<u>2007</u> Dom. 1053 Civ. 515 Juv. 4 Crim. 1 Prob. 299 Total 1872	<u>2007</u> Dom. 1075 Civ. 534 Juv. 0 Crim. 0 Prob. 333 Total 1942

EXHIBIT A

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DIVISION ONE KEITH	DIVISION TWO CLINGER	DIVISION THREE FINCH	DIVISION FOUR SCOTT	DIVISION FIVE DUNCAN
2008 as of 05/31/08	2008 as of 05/31/08	2008 as of 05/31/08	2008 as of 05/31/08	2008 as of 05/31/08
Crim. filed 411 Crim. pend. 94 Civ. 272	Crim. filed 363 Crim. pend. 127 Civ. 265 Juv. 1	Juv. 611 Civ. 265 Dom. 3 Crim. 27 Crim. pend. 1 Prob. 9	Dom. 448 Civ. 267 Juv. 0 Prob. 145	Dom. 468 Civ. 268 Juv. 0 Prob. 161
Total 683 (Count does not include pending cases)	Total 629 (Count does not include pending cases)	Total 915	Total 860	Total 897
2008 PROJECTED				
1639 (Count does not include pending cases)	1510 (Count does not include pending cases)	2196 (Count does not include pending cases)	2064	2153

2004 NEW CASE FILINGS

DOMESTIC	PROBATE	CIVIL	CRIMINAL	JUVENILE
2009	614	1932	2423	1018

2005 NEW CASE FILINGS

DOMESTIC	PROBATE	CIVIL	CRIMINAL	JUVENILE
2083	646	2230	2717	1199

2006 NEW CASE FILINGS

DOMESTIC	PROBATE	CIVIL	CRIMINAL	JUVENILE
1994	619	2631	1913	1276

EXHIBIT A

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<u>2007 NEW CASE FILINGS</u>				
DOMESTIC	PROBATE	CIVIL	CRIMINAL	JUVENILE
2135	655	2612	1915	1256

<u>2008 NEW CASE FILINGS</u>				
AS OF 05/31/08				
DOMESTIC	PROBATE	CIVIL	CRIMINAL	JUVENILE
921	315	1337	873	612
<u>2008 PROJECTED</u>				
2210	756	3209	2095 (Count does not include pending cases)	1469