

**Administrative Plan (Amended)
for
Ninth East (9-E) Judicial District**

On this 28th day of December, 2015, pursuant to Administrative Order Number 14, the following Amended Administrative Plan is submitted to the Arkansas Supreme Court. The 9-E Judicial District covers only Clark County with one Circuit Judge, Robert McCallum, and one full-time District Judge, Randy Hill. The Circuit Judge will hear all cases in all of the five divisions: criminal, civil, domestic, probate and juvenile, except for matters hereafter described which will be assigned to the District Judge as authorized under Administrative Order Number 18.

Assignments to District Judge: The District Judge will have primary responsibility to preside over the following cases including scheduling and related administrative duties :

- (1) Drug Court Program - Circuit Court;
- (2) Pro se uncontested divorces;
- (3) Forcible Entry and Detainers and Unlawful Detainer;
- (4) Search warrants pursuant to Rule 7.1;
- (5) Arrest warrants pursuant to Rule 13.1;
- (6) Collection cases - uncontested default judgment motions, uncontested garnishments, post-judgment contempt hearings for debtor failure to file financial schedule, motions for extension of time for service of process, uncontested motions for summary judgment or judgment on the pleadings;
- (7) Civil, domestic relations and probate cases upon the consent of all parties pursuant to Administrative Order No. 18(d);
- (8) Protective Orders pursuant to Ark. Code Ann. Section 9-15-201 through 217.

The District Judge will not be primarily responsible for but will be authorized to handle the following matters when the Circuit Judge is unavailable:

- (1) Requests for ex-parte mental commitment orders;

- (2) Requests for ex-parte orders of protection;
- (3) Requests for ex-parte drug/alcohol commitment orders;
- (4) Criminal case First Appearances pursuant to Rule 8.1 through 8.4;
- (5) Transport orders for incarcerated litigants or witness;
- (6) Requests for ex-parte juvenile detention orders

Specialty Courts: The specialty courts operating within the 9-East Judicial District consist of the Drug Court Program in Circuit Court and the Drug Court Program in District Court. The Circuit Court Program will be handled by the District Judge and will be operated independent of and separate from the District Court Program.

Circuit Level Drug Court Program: The Circuit Court drug court program has been in operation since 2004. Court sessions are conducted in Clark County in the Circuit Courtroom. The program utilizes a pre-adjudication process. As part of a negotiated plea agreement process, the Defendant is screened for acceptance into the program by Drug Court staff. If the Defendant is eligible and wants to proceed, the Defendant must, in consultation with defense counsel, enter a guilty plea as part of negotiated plea agreement. If the plea agreement is accepted by the court, the sentence pursuant to the plea agreement is held in abeyance to allow the Defendant to enter the program. Successful completion of the program results in a dismissal of the charges and an Order to Seal the file. Failure to complete the program results in the imposition of the sentence that was held in abeyance pursuant to the plea agreement. The program is conducted in conformance with state drug court statutes and complies with applicable laws involving the assessment of fines, court costs and probation fees. The program receives staff and funding from the Department of Community Corrections, collection of court fees and grants. The members of the drug court program team include the Randy Hill, District Judge; Blake Batson, Prosecuting Attorney; Krystle Williams, Probation/Parole Officer; Carla Nutt, Counselor; and Mike Wolfe, Administrative Specialist II. They have been consulted for

purposes of scheduling to insure that the necessary resources are available and to avoid conflicts with other court programs and responsibilities in which the team members may be required to participate. NOTE: The District Court Drug Court Plan will be submitted separately by District Judge Randy Hill.

Pre-adjudication Probation Program:

Mission. The 9-East Judicial District Pre-Adjudication Probation Program (hereafter referred to as "the Program") is designed to establish more effective sentencing practices through the use of an initial risk assessment process; pre-sentencing supervision and sanctions; and by providing services to defendants designed to decrease recidivism. The judiciary, law enforcement, prosecution, defense counsel, probation officers and community service providers will work together to administer the Program with the following goals:

1. Enhance public safety and decrease public expense by reducing recidivism;
2. Hold defendants accountable to victims and the community;
3. Provide services to increase the defendant's ability to live crime-free lives.

Defendants who participate in the Program must enter a guilty plea or no contest plea with the advice of counsel. The guilty plea or no contest plea will be taken under advisement while the defendant completes the Program. The Program will require the defendant to be accountable to their victims and the community through restitution payments and community service.

Defendants will be required to participate in community based programs such as drug/alcohol treatment, family counseling, job training skills, mental health treatment, anger management training, educational programs, mentoring programs and other basic life skills training based upon the needs of each Program participant.

Eligibility. In accordance with Arkansas statutes, the following persons are not eligible for entry into the Program:

1. A defendant who is charged with a criminal offense for which the person would be

required to register as a sex offender under the Sex Offender Registration Act of 1997 codified as A.C.A. Section 12-12-901 et seq.

2. A defendant who is charged with a felony involving violence as listed in A.C.A. Section 5-4-501(d)(2) as follows:

- a. Murder in the first degree;
- b. Murder in the second degree;
- c. Kidnapping;
- d. Aggravated robbery;
- e. Rape;
- f. Battery in the first degree;
- g. Terroristic act;
- h. Sexual assault in the first degree;
- i. Domestic battering in the first degree;
- j. Aggravated residential burglary;
- k. Unlawful discharge of a firearm from a vehicle;
- l. Criminal use of prohibited weapons, involving an activity making it a Class B felony; or
- m. A felony attempt, solicitation, or conspiracy to commit:
 - i. Capital murder;
 - ii. Murder in the first degree;
 - iii. Murder in the second degree;
 - iv. Kidnapping;
 - v. Aggravated robbery;
 - vi. Rape;
 - vii. Battery in the first degree;

viii. Domestic battering in the first degree;

ix. Aggravated residential burglary;

3. A defendant who is charged with a felony involving a victim who was seventeen (17) years of age or younger at the time the felony was committed.

4. A defendant who is charged with a felony involving a victim who was sixty-five (65) years of age or older at the time the felony was committed.

5. A defendant who is charged with a traffic offense committed in any type of motor vehicle who was a holder of a commercial learner's permit or commercial driver license at the time the traffic offense was committed. The term traffic offense does not include a parking violation, motor vehicle weight violation, or motor vehicle defect violation.

6. A defendant is not eligible for the Program unless the presiding Circuit Judge and the Prosecuting Attorney both consent to the person's participation. Neither the Circuit Judge or the Prosecuting Attorney will be required to disclose reasons for the denial to the defendant.

Procedures for Admission. To be considered for the Program, the Defendant's attorney must file a Motion for Assessment for the Pre-Adjudication Probation Program. The Court, Prosecuting Attorney, Defense Counsel, and Assessors will consider the following criteria in determining eligibility for the Program:

- a. The nature of the offense;
- b. The facts of the case;
- c. The motivation and age of the defendant;
- d. The input from the complainant or victim;
- e. The existence of personal problems and character traits which may be related to the applicant's crime and for which services are unavailable within the traditional criminal justice system;
- f. The likelihood that the applicant's criminal behavior is related to a

- condition or situation that would be conducive to change through his participation in the Program's supervisory services or support services;
- g. The needs and interests of the victim and society;
 - h. The extent to which the applicant's crime constitutes part of a continuing pattern of anti-social behavior;
 - i. The applicant's record of criminal and penal violations and the extent to which he may present a substantial danger to others;
 - j. Whether or not the crime is of an assaultive or violent nature, whether in the criminal act itself or in the possible injurious consequences of such behavior;
 - k. Consideration of whether or not prosecution would exacerbate the social problem that led to the applicant's criminal act;
 - l. The applicant's history of physical violence toward others;
 - m. Any involvement of the applicant with organized crime;
 - n. Whether or not the crime is of such a nature that the value of supervisory services would be outweighed by the public need for prosecution;
 - o. Whether or not the applicant's involvement with other people in the crime charged or in other crime is such that the interest of the State would be best served by processing his case through traditional criminal justice system procedures;
 - p. Whether or not the applicant's participation in pretrial intervention will adversely affect the prosecution of co-defendants; and
 - q. Whether or not the harm done to society by abandoning criminal prosecution would outweigh the benefits to society from channeling an offender into a supervisory services program.

The assessor will use additional assessment tools as recommended by the Arkansas Community Correction. As part of the assessment process, the applicant will submit to a baseline drug/alcohol screen provided that there will be no sanctions imposed or charges filed against the applicant as a result of this baseline screening. Each individual criterion may not apply in every case and the list is not intended to be exclusive. Other relevant factors may be included for consideration on a case by case basis.

As part of the assessment process, the Arkansas Community Correction will establish the defendant's projected completion date for the Program. The completion date may be extended if the defendant has not completed all of the requirements established by the assessment and approved by the Court. In addition to requirements of the Accountability Agreement, the Arkansas Community Correction Assessor will also submit recommendations for any affirmative actions and goals that the defendant must complete which will be reflected as special conditions under Paragraph 16 of the Accountability Agreement.

Procedures upon Completion or Termination. Upon the Defendant's completion of the Program, the Prosecuting Attorney will dismiss the case and an Order to Seal will be entered. If the Defendant is terminated from the Program or if the Defendant quits the Program, the criminal case will be reactivated for criminal court proceedings and a trial on sentencing will be scheduled. The supervising officer will notify the Court's Trial Court Assistant by email (with a copy to the Prosecuting Attorney and the Defendant's Attorney) to schedule a pre-trial hearing as soon as possible.

No statement or other disclosure regarding the charge or charges against the participant made or disclosed by a defendant in pretrial intervention to a person designated to provide supervisory services shall be disclosed by such person at any time, to the prosecutor, nor shall any such statement or disclosure be admitted as evidence in any civil or criminal proceeding

against the defendant, provided that the supervising officer shall not be prevented from informing the prosecuting attorney, or the Court, on request or otherwise, whether the participant is satisfactorily responding to supervisory services.

Enhanced Jury List: After careful consideration, this District declines the use of the enhanced jury list pursuant to Arkansas Code Ann. 16-32-303(b).


Robert McCallum, Circuit Judge

Dated: 12-28-15


Randy Hill, District Judge

Dated: 12-23-15