

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

No. 2010-CA-01745

**LAFAYETTE COUNTY BOARD OF
SUPERVISORS**

APPELLANT

V.

THIRD CIRCUIT DRUG COURT

APPELLEE

BRIEF OF THE APPELLEE

An Appeal From the Circuit Court of Lafayette County, Mississippi
Honorable Andrew K. Howorth, Circuit Judge, Presiding

NO ORAL ARGUMENT REQUESTED

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CERTIFICATE OF INTERESTED PARTIES

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the Justices of the Supreme Court and/or the Judges of the Court of Appeals may evaluate possible disqualification or recusal.

- (1) Lafayette County Board of Supervisors, Appellant
 - (a) Mike Pickens, District 1 Supervisor
 - (b) Johnny Morgan, District 2 Supervisor
 - (c) Robert Blackmon, District 3 Supervisor
 - (d) Lloyd Oliphant, District 4 Supervisor
 - (e) Ray Sockwell, Jr., District 5 Supervisor
- (2) Third Circuit Drug Court, Appellee
- (3) Hon. Andrew K. Howorth, Third Circuit Drug Court Judge
- (4) David D. O'Donnell, Attorney for the Appellant
- (5) Attorney General Jim Hood, Attorney for the Appellee
- (6) Elizabeth R. Carr, Attorney for the Appellee



Elizabeth R. Carr, MSB# [REDACTED]
Attorney for Appellee

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STATEMENT OF THE ISSUES

1. WHETHER THE DRUG COURT'S STATUTORY PROVISIONS AND THE RULES PROMULGATED BY THE AOC REQUIRE OR PERMIT DRUG COURTS TO ADMINISTRATIVELY MANAGE THEIR BUDGETS AND STAFF WITHOUT THE INVOLVEMENT OF JURISDICTIONS SERVED BY THE DRUG COURT.

2. WHETHER THE THIRD CIRCUIT DRUG COURT EXCEEDED ITS "INHERENT POWER" AND AUTHORITY WHEN IT ORDERED LAFAYETTE COUNTY TO PLACE DRUG COURT STAFF ON THE LAFAYETTE COUNTY PAYROLL SYSTEM.

3. WHETHER THE THIRD CIRCUIT DRUG COURT EXCEEDED ITS "INHERENT POWER" AND AUTHORITY IN ORDERING LAFAYETTE COUNTY TO ADMINISTER THE THIRD CIRCUIT DRUG BUDGETARY ACCOUNTS.

STATEMENT REGARDING ORAL ARGUMENT

Appellee would submit that the facts of this case are clear, and the issues on appeal are neither complex, unique or one of first impression. Accordingly, Appellee *does not* believe oral argument is necessary or that additional resources should be expended in this instance.

STATEMENT OF THE CASE

I. Nature of the Case

The overreaching act of the Lafayette County Board of Supervisors' ("the Board") refusing to hire a certified law enforcement officer for the Third Circuit Drug Court ("Drug Court") in retaliation for a rental dispute with the Drug Court following an immediate and unexpected demand by the Board for rental payments, prompted the Drug Court to issue the Order, dated June 17, 2010. This Order is the subject of the instant appeal. The subject Order required that the Board (1) "cease and desist from interfering with the independent operation of the Circuit Court, including the Third Circuit Drug Court" and (2) "comply with all reasonable request made by and on behalf of the Drug Court pertaining to Drug Court funds administered by Lafayette County," including the request to hire the law enforcement officer. *See Exhibit 1, June 17th Order, p. 1.*¹ The Drug Court recommended hiring the law enforcement officer after identifying a need for one to conduct home visits and curfew checks of participants in the Drug Court program. While the new hire would be under the County's payroll, pursuant to an agreed Resolution between the County and the Drug Court, the Administrative Office of Courts ("AOC") would reimburse the County. *See Exhibit 1, June 17th Order, Pg 5.* The Board's actions not to hire the law enforcement officer were contrary to the spirit and express terms of the Resolution and, in response, the Drug Court lawfully exercised its "inherent authority," vested by the Drug Court rules and statutory and case law when it entered the June 17th Order, so that the function of the Drug Court would not be

¹ The Board sought an opinion from the Attorney General ("AG") on the very matters that are the subject of the June 17th Order. No where in the Board's four-page letter to the AG did the Board state that these matters were the subject of litigation, which would have precluded the AG from issuing an opinion on the matter. It is a known practice that the AG will not issue an opinion in litigated matters. Despite this factual omission on the Board's part, the AG, without knowledge of the Court's June 17th Order, issued an opinion that was consistent with said Order. A true and correct copy of the AG's opinion is attached Ex. ~

disrupted.

Recently, Union County replaced Lafayette County as the “lead county” for the Drug Court. Despite this change, the issues addressed in the instant appeal are not moot as a ruling would only serve to further clarify the relationship between the Drug Court and the “lead county” and their respective roles.

II. Course of the Proceedings, Relevant Facts, and Disposition in the Court Below²

A. History of the Drug Court

Drug Courts play a vital role in the counties in which they serve by rehabilitating substance abusers and equipping them with the life skills needed to re-enter society as sober, productive citizens. Drug Courts are courts designed to address crimes committed by persons addicted to drugs or alcohol. The drug courts goal is to rehabilitate drug addicted offenders by requiring them to participate in drug treatment programs and intense supervision. This includes drug testing and frequent court appearances. Drug courts present the opportunity for the offender to remain out of jail and be employed. However a sanction of a jail sentence would be imposed if participants fail to remain drug-free and in compliance with all program requirements.

There are approximately 38 Drug Courts currently operating in Mississippi.³ The Third Judicial District began its Drug Court in January of 2008, after complying with all of the requirements necessary for being classified as a certified Drug Court; one of those requirements being to identify the jurisdictional county in which the Drug Court would be housed. It was determined, based on the geographical location, population and residence of the judge and staff that would oversee the program, that Lafayette County

² Because the course of the proceedings is intertwined with the relevant facts, these sections have been combined. A detailed recitation of the facts can also be found in the Drug Court’s June 17th Order.

³ State of Mississippi Judiciary, www.mssc.state.ms.us

would be the best location for the Drug Court. To that end, the Lafayette County Board agreed to house the Drug Court in the newly-renovated Lafayette County Courthouse. The Board also agreed to serve as the jurisdictional or “lead county” for the Drug Court. It is important to note that this was not a mandatory obligation.

B. The Role of the Administrative Office of Courts

In recognition of the critical need for judicial intervention to reduce drug and alcohol abuse, the Mississippi Legislature, signed into law the Alyce Griffin Clarke Drug Court Act (The Act). Miss. Code Ann. § 9-23-1. The Act gives the responsibility of certifying and monitoring local drugs courts to the AOC. Miss. Code Ann. § 9-23-7. The AOC is to comply with the standards set out by the State Drug Courts Advisory Committee. *Id.* According to the State Drug Courts Advisory Committee, a court must notify the AOC of its intent to establish a drug court during the planning stages. Miss. Drug Court Rules, Section 5. The AOC approves the petition submitted by the proposed drug court containing, the proposed budget of said drug court and a full description of the proposed intervention component before a drug court may begin operating. Miss. Code Ann. § 9-23-11 and Miss. Drug Court Rules, § 6. *See Exhibit 2.* By the 10th of each month, the drug court is required to provide to the AOC a fiscal report reflecting all expenditures incurred for the month. Miss. Drug Court Fiscal Policy, p. 8. Upon receipt of said report, and approval by the AOC, the AOC issues a reimbursement check to the individual drug court program for expenditures reported during the month. *Id.* All courts are required to maintain their documents in accordance with the lead county or municipality. *See Exhibit 3, Pg. 8.*

C. Progression of the Third Circuit Drug Court

From the start, the Board of Supervisors began the unsettling practice of voting on

whether or not to approve certain items in the budget that had previously been authorized by the AOC. While troubling, the Drug Court determined it was unnecessary to assert its authority because the votes were consistent with the AOC's previous approval and, thus, were not necessarily ripe to be addressed.⁴

However, on or about August 2009 this changed when a misunderstanding arose regarding the Board's unexpected demand on the Drug Court for immediate rental payments – more than a year and seven months after the Drug Court's creation. While the Drug Court attempted to work out the rental payment terms with the Board, the Board retaliated by voting during the February 2010 meeting not to approve the hiring of the law enforcement officer recommended by the Drug Court in an attempt to use this issue as leverage to expedite the Drug Court's payment of rent. In a subsequent vote during the Board's May 2010 meeting, the Board discontinued administration of the Drug Court's accounts in further retaliation for the Drug Court's delay in making rental payments. In response, the Court, finding that the Board had exceeded its authority and was now interfering with the independent operation of the Drug Court, took immediate action by issuing the June 17, 2010 Order requiring the Board to cease from interfering with the operation of the Courts; to immediately hire the law enforcement officer; and, administer funding for the Drug Court, among other things. See June 17th Order, pp. 1, 14. The Order followed a Motion for Reconsideration by the Board and a subsequent Final Order from the Drug Court, dated September 21, 2010, denying the Board's relief requested in its Motion. See *Exhibit 4*, Mot. For Reconsideration and *Ex. 5*, Final Order.

⁴It is important to note that each Drug Court has a budget that is approved by the AOC. The jurisdictional county which houses the Drug Court makes all payments on behalf of the Drug Court and is reimbursed by the State [?] in full for those payments on a monthly basis.

SUMMARY OF THE ARGUMENT

The authority of the judicial branch to act under necessity is quite clear. The judicial branch has the authority as well as the duty to see that courts do not deteriorate. *Hosford v. State*, 525, So.2d 789 (Miss. 1988). Section 9-23-11(2) of the Alyce Griffin Clarke Drug Court Act (the Act) clearly states that “each individual Drug Court judge may establish rules and may make special orders and rules as necessary that do not conflict with rules promulgated by the Supreme Court.” Additionally, the Act gives a drug court the authority to hire employees as it deems necessary to carry out the functions of the Court.

The Act does not vest in any board of supervisors the authority regarding the day to day activities of the drug court. However, by virtue of the drug courts’ authority to “make special orders”, the Drug Court and the Board entered into a 2007 Resolution, in which the Board agreed to serve as the jurisdictional or lead county and, in doing so, agreed to accept certain responsibilities that came with this assignment. *See Ex. 1*, June 17th Order, Pg. 5. The Drug Court determined that the most efficient way to operate would be to have all functions, i.e. budget and payroll, housed in one place, Lafayette County, the lead or jurisdictional county. Based on the Constitution, the Drug Court Act and precedent, the Drug Court was well within both its expressed and implied power to make this determination and, when the Board violated the terms of the Resolution, to issue the June 17th Order requiring the Board stop interfering with the independent operation of the Drug Court and comply with all reasonable requests made by and on behalf of the Drug Court pertaining to its funds administered by Lafayette County, including the request to hire the law enforcement officer.

ARGUMENT

I. Standard of Review

The standard of review in this matter is *de novo*. In matters that are questions of law, the Court of Appeals employs a *de novo* standard of review and will *only* reverse for an erroneous interpretation or application of the law. *Thompson v. Rizzo Farms, Inc.*, 27 So. 3d 452 (Miss. Ct. App. 2009).

II. The Third Circuit Drug Court Acted Well Within Its Authority in Establishing a System to Carry Out Its Functions.

The Appellant in this case asserts that the Drug Court had no authority to assign certain responsibilities and duties to Lafayette County, the county which voluntarily agreed and was eventually selected as the jurisdiction in which the Drug Court would be situated. However, the Legislature, as well as prior precedent state otherwise. While the Legislature provides the funds for the judicial system to operate, the Mississippi State Constitution makes the Executive, Legislative and Judicial branches of State government separate and co-equal. Miss. Const. art..1, §1. Drug Courts were created by the legislature under Section 9-23-1 of the Mississippi Code Annotated. The drug court's authority to act in the manner in which it did lies within the Alyce Griffin Clarke Drug Court Act. *Id.*. Section 9-23-11(2), provides that, "[e]ach individual Drug Court judge may establish rules and may make special orders and rules as necessary that do not conflict with rules promulgated by the Supreme Court." Section 9-23-11(3) further provides that, "a Drug Court may appoint such full-time and part-time employees it deems necessary for the work of the Drug Court." Along these lines, the Mississippi Supreme Court in *Hosford v. State*, 525 So.2d 789 (Miss. 1988), pronounced that "no Court should ever usurp the authority of the Legislature to furnish what funds and

facilities it deems proper except in cases of absolute necessity. On the other hand, if the Legislative branch fails in its constitutional mandate to furnish the absolute essentials required for the operation of an independent and effective Court, then no Court affected thereby should fail to act. It is an *absolute duty* of a Court in the latter circumstances to act, and act promptly.” *Id* at 798.

Here, the Board argues that the Drug Court could not establish rules it deemed necessary to carry out the duties to effectively operate the Drug Court. However, based on the case law and statutes, a drug court judge can within his/her discretion, appoint the necessary individuals within the county in which the drug court is located to carry out those functions needed to effectively operate the drug court. At the very least, the Court’s ability to act in the manner in which it did is grounded in judicial self preservation. The Board admits that it agreed to function as the lead or jurisdictional county of the Drug Court. *See* Mot. for Recons., p. 1, *Exhibit 4*. Had the Board not accepted the role as “lead county,” it would not have been subject to the responsibilities that came with having the Drug Court located in its county. As the 2007 Resolution sets forth, these responsibilities included providing “the initial, up-front financial support for the Drug Court,” with the understanding that it would be fully reimbursed for those costs by the State of Mississippi.

Thus, it is evident that the Board understood the responsibilities that were to be attached with the role as “lead county.” Further, the Drug Court judge, in establishing a system to effectively run the Drug Court, attempted to establish the most efficient system possible. It only seems logical that the county in which the Drug Court is located and serves as the jurisdictional county for the program would be responsible for overseeing

the funds of the drug court. Consistent with the Act, the Drug Court judge was well within his authority to establish this system.

This concept is not only followed in Mississippi, but other jurisdictions have addressed the judiciary's task of preserving its integrity. In *Smith v. Miller*, 384 P.2d 738, 741 (Colo. 1963), the Supreme Court of Colorado adopted the following statement from the rulings of the trial judge:

(I)t is the genius of our government that the Courts must be independent, unfettered, and free from directives, influence, or interference from any extraneous source. It is abhorrent to the principles of our legal system and to our form of government that Courts, being a coordinate department of government, should be compelled to depend upon the vagaries of an extrinsic will. Such would interfere with the operation of the Courts, impinge upon their power and thwart the effective administration of justice."

See also Supervisors v. Wingfield, 1876 WL 6336 (Va. 1876); *City of New Orleans v. Bell*, 1859 WL 6060 (La. 1859); *Belvin v. Richmond*, 8 SE 378 (Va. 1888).

By the Board refusing to hire the law enforcement personnel until the issue of rent had been resolved, it essentially held hostage the Drug Court's ability to function as it deemed appropriate. Thus, the Drug Court had no other alternative but to order the Board to cease and desist from interfering. In light of the foregoing, this Court should find that the Drug Court judge acted well within both its expressed and implied power afforded to it in establishing the protocol necessary to carry out its daily functions.

III. Third Circuit Drug Court Did Not Exceed Its Inherent Powers and Authority by Assigning the Drug Court Staff to the Lafayette County Payroll or in Assigning to Lafayette County the Responsibility of Overseeing Its Budgetary Accounts.

The Appellant argues there was no contemplation that the jurisdictional county would bear any responsibility of managing the Courts budget and payroll. However, this is contrary to the spirit and language of the joint Resolution between the Board and Drug Court, which establishes that the Board would be involved in some budgetary aspects of the Drug Court. Notwithstanding the fact that the Drug Court judge has the authority to establish such rules necessary to carry out the goals and functions of the Drug Court, under the Mississippi Drug Court Rules, there must be a participation agreement established between the certified Drug Court and the county of jurisdiction where the Drug Court will be held. Miss. Drug Court Rules §23, Page 22. It is undisputed by both parties that the Board agreed to accept the responsibility of serving as the county of jurisdiction or lead county for the new Drug Court and, by doing so, they accepted certain duties. Further, Section 25 of the Mississippi Drug Court Rules states that “the certified Drug Court must have developed and implemented an accounting system with the capability to ensure financial transactions are thoroughly documented and handled in a *uniform and consistent* manner.” Miss. Drug Court Rules §25, Page 23. Thus, the Legislature was not silent on how it intended the drug court to carry out its functions. It intended for there to be consistency in how the day to day operations were carried out. Here, the Drug Court in establishing its process believed the most rational way for this to be done was for the lead county or jurisdictional county to bear the burden of overseeing the budgetary duties of the Drug Court.

The Fiscal Policy of the Mississippi Drug Court clearly states that “each court shall maintain documents in accordance with the *lead* county or municipality.” The

Mississippi Drug Court Fiscal Policy, p. 6 *See Exhibit 3*. The most efficient manner to ensure compliance with this requirement is for the lead county to oversee the budget. *Id.* The Fiscal Policy gives the drug court deference as to how it will carry out these functions. Thus, the methods to which the drug court will comply with these requirements are left up to the drug court, so long as said requirements are met.

Moreover, courts have continuously found that “inherent judicial power grows out of express and implied constitutional provisions mandating a separation of powers and a viable judicial branch of government.” *In Re The Matter of the Clerk of Court's Compensation for Lyon County v. Lyon County Commissioners*, 241 N.W. 2d 781, 783 (Minn. 1976). While Courts must limit their incursions into the legislative realm in deference to the separation of powers doctrine, separation of powers also dictates that the judiciary be able to ensure its own survival when insufficient funds are provided by the other branches. To do so, courts possess inherent power, that is authority not expressly provided for in the constitution, but which is derived from the creation of a separate branch of government and which may be exercised by the branch to protect itself in the performance of its constitutional duties. *In the Matter of the Salary of the Juvenile Director*, 552 P.2d 163, 170, 171 (Wash. 1976). Here, the Drug Court exercised its inherent judicial power to establish a system enabling it to meet all requirements of the Act, Fiscal Policy and Rules.

IV. The Lafayette County Board of Supervisors Grossly Exceeded Its Authority in Attempting to Determine How Funds for the Drug Court Would be Expended

The Board argues that the Drug Court judge exceeded his authority in having Lafayette County oversee the payroll and budget of the Drug Court. However, it was not the Drug Court that exceeded its power. In refusing to approve the hiring of staff the Drug Court had determined was necessary to carry out obligations of the Drug Court, the Board grossly exceeded its authority. Section 9-23-11(3) of the Drug Court Act authorizes a drug court to “appoint such full or part –time employees it deems necessary for the work of the Drug Court and shall fix the compensation of those employees. Such employees shall serve at the will and pleasure of the judge or the judge’s designee.” This section also gives the drug court judge full authority to hire as he/she deems necessary subject to the approval of the AOC. Nowhere in the Act does a board of supervisors have any authority to approve or deny any matters related to the day to day functions of the drug court. The Act, however, expressly authorizes the drug court judge the authority to not only hire employees, but also to establish rules necessary to carry out the functions of the drug court so long as those rules do not conflict with the rules promulgated by the Supreme Court. *See* Miss. Code. Ann. § 9-23-11(3) . In, *In Re Courtroom and Officers of Fifth Branch Circuit Court*, 134 N.W. 490 (Wis. 1912), the court found that, “a county board has no power to even attempt to impede the functions of such a Court, and no such power could be conferred upon it. Circuit Courts have the incidental power necessary to preserve the full and free exercise of their judicial functions, and to that end may, in appropriate cases, make ex parte orders without formally instituting an action to secure the desired relief.” *Id* at p. 495. Based on the foregoing, this Court should find that Board grossly exceeded its authority by attempting to regulate the budget of the Drug

Court, leaving the Drug Court judge no other alternative but to establish rules to prevent any further interruption with the Courts ability to function properly.

CONCLUSION

The Drug Court had both expressed and implied authority to act in the manner in which it did. The judiciary has an absolute right to protect itself and to enable the administration of justice. In this instance, the judicial power not only originated from the State Constitution, but also within the parameters of the Drug Court Act and Drug Court Rules. The Third Circuit Drug Court Judge in this instance attempted in every way possible to avoid having to assert its inherent judicial authority. When the Board began its unsettling practice of voting on certain budgetary aspects of the Drug Court, the judge remained silent. When the Board determined that it now wanted the Drug Court to pay rent to be housed in the building, the judge attempted to work with the Board to find resolution to this issue. It was not until the Board exceeded its authority in failing to place a Drug Court employee on payroll, as a ploy to expedite rental payments, that it became necessary for the judge to preserve the authority of the judiciary and issue an Order for the Board to cease and desist its interference with the operation of the Drug Court. In instances such as this, the judiciary must act out of necessity to ensure that the integrity of the court is not diminished and that the court continues to operate without interruption.

THIS, the 2nd day of May, 2011

Respectfully submitted,

THIRD CIRCUIT DRUG COURT

BY: 

Elizabeth R. Carr, MSB [REDACTED]
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CERTIFICATE OF SERVICE

I, Elizabeth R. Carr, Special Assistant Attorney General, Counsel for the Appellee, do hereby certify that I have caused this day to be mailed, by United States Mail, postage prepaid, a true and correct copy of the above and foregoing Brief of the Appellee to :

Honorable Andrew K. Howorth
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THIS, the 2nd day of May, 2011.


Elizabeth R. Carr, MSB# [REDACTED]

IN THE CIRCUIT COURT OF LAFAYETTE COUNTY, MISSISSIPPI

IN RE: LAFAYETTE COUNTY BOARD OF
SUPERVISORS

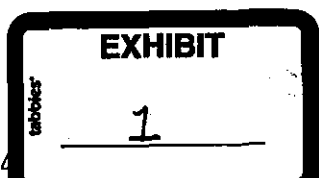
MISC NO. 110-371 MISC

ORDER

The Court, on its own motion, is issuing this Order requiring the Lafayette County Board of Supervisors 1) to cease and desist from interfering with the independent operation of the Circuit Court, including the Third Circuit Drug Court, hereinafter "Drug Court," and 2) to comply with all reasonable requests made by and on behalf of the Drug Court pertaining to Drug Court funds administered by Lafayette County. A majority of the presently constituted Lafayette County Board of Supervisors has a history of attempted interference with the independent operation of this separate branch of state government. This interference began when this currently seated Board¹ undertook efforts to remove the public defenders who work for the Court in Lafayette County and to replace them with attorneys selected by the supervisors. These attempts² at interference have continued to the present. To place the Court's action taken today in context, it is necessary to provide a history of certain events so that these extraordinary measures taken by the Court may be clearly understood.

¹ Whenever action taken by the Lafayette County Board of Supervisors is referenced in this Order, it should be understood to mean action taken by virtue of a vote of a majority of the Board. Votes taken by the Board materially affecting Circuit Court and Drug Court have rarely been unanimous.

² It is not necessary or appropriate for the Court to take action if there are attempts to interfere with the Court. Action only becomes necessary if these attempts are successful.



FILE THIS THE 17 DAY OF
June, 20 10
MINUTE BOOK 66 PAGE 129-193
MARY ALICE BUSBY, CIRCUIT CLERK
BY DB D.C.

A Brief History

Drug courts are a relatively new concept. They are still evolving across the country and throughout the State of Mississippi. The first drug court in the United States was established in Miami-Dade County, Florida in 1989, primarily in response to the epidemic of crack cocaine. By 1999, 472 drug courts were in existence nationwide. In 2005, that number had increased to 1,262. Today, more than 2,000 drug courts are in operation nationally. The first adult felony drug court in Mississippi was started in 1999. Currently, there are 16 adult felony drug courts in Mississippi, along with several operational misdemeanor and youth drug courts.³

Drug courts are designed as an alternative sentencing for non-violent, substance abusing offenders. Drug courts' goals include reducing addiction, recidivism, and their associated economic and social costs. As an alternative to incarceration, the cost savings provided by drug courts to the taxpayer are profound.⁴

Individuals can only become eligible for drug court in Mississippi if they meet the following statutory requirements: 1) they are charged with a crime, generally a felony; 2) they have no past conviction or present charge which includes crimes of violence; 3) their present charge cannot be burglary of a dwelling; 4) their present charge cannot be driving under the influence which resulted in the death of any person; 5) they do not have a previous conviction or present charge involving distribution, sale, manufacture, possession with intent or similar charges

³ Website of the State of Mississippi Judiciary, found at www.mscc.state.ms.us.

⁴ The Third Circuit Drug Court currently has 190 participants. Its annual budget for Fiscal Year 2009-2010 is \$217,339.00. This amount will change on October 1, 2010. If only one-third of these Drug Court participants were incarcerated instead of in Drug Court, the cost to Mississippi's taxpayers would be at least \$1.9 million per year (assuming, conservatively, an annual incarceration expense of \$30,000 per inmate).

involving controlled substances.

Although too detailed to completely recite in this Order, the drug court model is based upon a generalized theory of escalated rewards and sanctions. Participants are initially drug tested twice per week. Once a participant has sufficiently demonstrated control of the addiction problem, the supervision and drug testing gradually become less frequent. If the participant tests positive for banned substances,⁵ the participant is subjected to sanctions ranging from a weekend in jail to expulsion from the program and a lengthy penitentiary sentence. There are only two ways to leave the drug court program: either as a clean and sober graduate (minimum 3-year participation) or as a failure with a long prison sentence. The national success rate for drug courts is quite high, much higher than any other category of treatment programs. The difference is generally thought to be attributable to the existence of an incarceration sanction.

Drug Court in Lafayette County

The Third Judicial District Circuit Court contemplated starting a drug court in Lafayette County for a number of years. Lafayette County is the best location for a drug court within the Third Circuit Court District for a number of reasons: 1) its geographical location within the district is ideal; 2) it has the highest population of prospective participants of any county within the district; and 3) it is the residence of the Judge and staff who preside over and supervise the Drug Court.⁶

Some time ago, the previous Lafayette County Board of Supervisors voted to renovate the

⁵ Participants are generally tested for the presence of THC, amphetamine, cocaine, opiates, and alcohol (E.T.G.)

⁶ The Third Circuit Court District consists of Benton, Calhoun, Chickasaw, Lafayette, Marshall, Tippah, and Union counties.

Lafayette County Courthouse. At that time, the Board was approached by the Court concerning placement of offices for Drug Court within the newly renovated Courthouse. That Board agreed to dedicate space in the renovated Courthouse for use by the prospective Third Circuit Drug Court. With this assurance of space to be provided by Lafayette County at no charge, the Court made application with the Administrative Office of Courts (AOC) to begin an adult felony drug court in the Third Judicial District.

The AOC is a specialized entity within the state court system which handles a number of administrative responsibilities for the appellate and trial courts. With respect to drug courts, the AOC certifies each drug court (a prerequisite to funding) and approves the budget for each drug court. A Court must successfully complete a number of steps to obtain approval from the AOC for operating a drug court. Notably, to obtain funding from the State of Mississippi, a prospective drug court must have a county willing to administer the funds which shall come from the State Treasury's Drug Court Fund to operate a drug court. Mississippi Code Annotated § 9-23-51. This county is referred to by the AOC as a "lead county." The bulk of the money raised for the State Treasury's Drug Court Fund is derived from a ten dollar assessment included in the monetary penalties resulting from misdemeanor and felony. The AOC also receives federal grant money to supplement the Drug Court Fund.

To satisfy this requirement of a lead county, the Circuit Judge asked the Lafayette County Board of Supervisors to administer the drug court funds to be provided in full by the AOC. The supervisors agreed to serve as the lead county at a meeting on December 3, 2007.⁷ At that

⁷ It is logical to ask the county where drug court is domiciled to serve as the lead county and therefore shoulder the burden of handling the Court's money. Jobs are created in the domicile county. The participants who are residents in the domicile county are the least burdened

meeting, the supervisors unanimously adopted a resolution which seemed to express an understanding of and support for a drug court in Lafayette County. That resolution reads in full text as follows:

RESOLUTION

A RESOLUTION OF THE BOARD OF SUPERVISORS OF LAFAYETTE COUNTY, MISSISSIPPI AUTHORIZING FINANCIAL SUPPORT OF THE DRUG COURT FOR THE THIRD CIRCUIT JUDICIAL COURT

Supervisor Keith Brown made a motion to approve the following resolution:

WHEREAS, on October 30, 2007, the Third Circuit Judicial District Court for the State of Mississippi received a Provisional Certificate of Approval from the Mississippi Supreme Court's Administrative Office of Courts to establish a Drug Court for this judicial district;

WHEREAS, Mississippi Code Ann. § 9-23-5 (2007) defines "Drug court" as an immediate and highly structured intervention process for substance abuse treatment of eligible defendants or juveniles that brings together substance abuse professionals, local social programs, and intensive judicial monitoring;

WHEREAS, the Third Circuit Judicial District Drug Court will be located in Lafayette County but will serve all eligible participants within its jurisdiction;

WHEREAS, it is the mission of this Drug Court to enhance public safety by providing substance abusers with cost-effective, multi-disciplinary alternatives, including substance abuse treatment and monitoring; improving a participant's quality of life and returning that participant to the community as a productive, law-abiding citizen, thereby reducing the rate of recidivism and breaking the drug cycle within our jurisdiction;

WHEREAS, while funding for the Drug Court of the Third Circuit Judicial District will be provided by the State of Mississippi through the Administrative Office of Courts, Lafayette County will provide the initial, up-front financial support for the Drug Court and thereafter will be fully reimbursed for this amount by the State of Mississippi;

by the reporting and drug testing requirements of drug courts. Therefore, a larger percentage of the local population is positively impacted.

NOW, THEREFORE, BE IT RESOLVED, that this Board adopt this resolution in regular session this the 3rd day of December 2007 and do hereby agree to provide the up-front financial support to the Drug Court for the Third Circuit Judicial District.

Each drug court has its budget and expenditures approved by AOC. The lead county makes all payments on behalf of the drug court and receives full reimbursement from the AOC for all of those payments on a monthly basis. Importantly, discretion over expenditures lies with the drug court, subject to the approval of the AOC. A lead county, such as Lafayette County, is an administrator of the funds – merely a funding conduit. The lead county does not have discretion over how the funds are utilized. That discretion belongs to an entirely different branch of government, in this case, the state judiciary.

After the Lafayette County Board of Supervisors agreed to administer the funds coming from the State and after the Third Circuit Court received drug court certification from AOC, the Third Circuit Drug Court began operation in January of 2008. Although the inception of the Drug Court was timed to coincide with the reopening of the renovated Courthouse, due to delays in completion of that renovation, the Drug Court started operation in the Lafayette County Chancery Building with very limited space. The first participants were admitted to Drug Court in April of 2008. From that time, the Drug Court population has continued to skyrocket to its current population of 190. The average monthly increase in population is therefore 7.12 participants. This extrapolates to a projected sustained population of approximately 256 participants after 36 months.

Eventually, the Courthouse renovation was completed. At that time, there was a brief controversy about what county offices would occupy the renovated Courthouse. The Board of

Supervisors ultimately voted to have the building occupied by the Circuit Clerk, the Court staff, the Lafayette County Election Commissioners and the Drug Court staff as well. In fact, at every vote taken by the Board concerning occupancy of the renovated Courthouse, the Drug Court was "voted in" to the Courthouse. A very expensive and highly specialized drug testing machine had been installed on the third floor, where the Drug Court offices had always been slated to be located.⁸

Once Drug Court was funded and operational, the Board of Supervisors initiated the disturbing practice of voting on whether or not to approve budget items which had already been authorized by the AOC. For example, the Board would vote on whether to authorize travel expenses for the Drug Court staff, even though the travel and expenses had been approved by AOC. The Board also voted on personnel decisions, such as Drug Court hires, even though those decisions were for the Drug Court Judge alone. Of course, as long as the Board voted to approve, they were not acting contrary to the intentions and directions of Drug Court, so there was no problem presented. There is no need to fix something if it is not broken.

The Demand for Rent

On August 1, 2009, Brandon Vance was hired as the new drug court coordinator. The Board continued its practice of voting to approve the hire, even though the Board had no voice in approving the hire and were not paying for the salary of the hire. Mr. Vance had been on the job

⁸ A controversy arose as a part of the installation of the drug testing machine. A change order was necessitated for the testing equipment to properly function. This change order cost Lafayette County over \$7,000.00. At that point, one supervisor pointed out that Drug Court was not supposed to cost Lafayette County anything. To satisfy this complaint, the Drug Court obtained an amendment to its budget, approved by the AOC, to reimburse Lafayette County for the cost of the change order. After obtaining the budget amendment, the offer of reimbursement was then declined by the Board due to inaction.

no longer than a couple of weeks when he received an e-mail from the County Administrator, Joseph Johnson, indicating that the Board of Supervisors had decided that the Drug Court should be paying rent for the use of the Courthouse. Since Mr. Vance was quite new on the job, it was felt that the response to this demand could better be handled by the Circuit Judge. The undersigned Circuit Judge (who is obviously the Drug Court Judge) called the County Administrator to discuss the substance of the e-mail sent to Mr. Vance. After the conversation, though not completely clear, the sense was that the supervisors felt that the Drug Court should pay rent to the County for the use of the Courthouse because the Drug Court serves a constituency beyond Lafayette County.⁹

After considering this demand for rent made by the supervisors and what options to take to generate the funds to pay the rent, the Circuit Judge called the County Administrator and offered to levy additional fines in drug cases before the Court for the benefit of Lafayette County, in an amount of not less than \$24,000 per year. The County would receive the amount of additional funds equivalent to the demanded rent, and the Drug Court would not suffer the loss of funds from its budget which could compromise operation of the Drug Court.¹⁰ That telephone

⁹ Lafayette County has more than twice as many Drug Court participants than the second highest county in the district. Forty-one percent of the Drug Court participants are residents of Lafayette County. The second highest county represented is Calhoun County with 19% of participants. Benton County presently has only one participant.

¹⁰ Managing the budget of a growing drug court can be quite a challenge. The fiscal year for Drug Court is from October 1 to September 30. It is designed to coincide with the fiscal year of the County. The funding for each drug court is based upon the average number of participants in the program for the months of April, May and June of the preceding fiscal year. Because it takes a minimum of 36 months to graduate from an adult felony drug court program, it should be assumed that the number of participants in drug court will continue to grow for the first three years of operation and then level off. If the program is less than five years old, and because funding is based upon the previous year's population, as long as you can continue to add

conversation ended when the County Administrator told the Judge that he would get back with him regarding the offer to levy a minimum of an additional \$24,000 per year. Presumably, the County Administrator needed to confer with whoever was making the decisions. After approximately a day or two, the County Administrator called the Judge and told him that the proposal was unacceptable to the supervisors. The supervisors required that the rental payments come out of the Drug Court budget. Because of the problems described in Footnote 10, this payment requirement led to an impasse between the Court and Board.

After the passage of some period of time, the Court learned that the Board of Supervisors had held its first public meeting on the issue of rent and had voted to charge Drug Court rent for the use of the Courthouse. According to the minutes of the Board, this meeting was held on December 7, 2009. All decisions which preceded this vote, as early as August of 2009, were apparently made without the benefit of a public meeting.

Upon learning the Board had taken this vote, the Circuit Judge called the attorney for the Board of Supervisors, David O'Donnell. The Court hoped the Board's attorney would be in the position to advise the Board about the necessity of courts operating independently from interference from boards of supervisors. In this conversation, the Judge advised Mr. O'Donnell that the Drug Court would pay rent out of the Drug Court budget if no other options were available and Mr. O'Donnell advised the Court that he would contact the other six counties in the judicial district and inquire about those counties' willingness to make voluntary, per capita or pro rata contributions to Lafayette County based upon those counties' use of the Lafayette County

participants, there is always a funding shortfall. A drug court the present size of the Third Circuit's should have a full-time staff of at least four professionals, if not five. There are currently only three staff members in the Third Circuit Drug Court.

Courthouse for Drug Court. This conversation concluded with a basic understanding: if the remaining counties were willing to share the rental burden voluntarily, then the issue of rent was resolved. If they were not, then the Drug Court would seek budget approval from the AOC to begin paying rent to Lafayette County of \$2,000 per month, but not before the next fiscal year's budget. Since the Judge was under the impression at that time that the new fiscal year began July 1, 2010, the offer was made to begin paying rent as of that date.

Exercising Discretion Where None Exists

Time moved on. Nothing was heard back from the County for a while. The Drug Court participant population continued to grow. The key to success in drug court is the intense supervision of participants. This supervision is difficult to maintain on today's population and yesterday's budget. (See Footnote 10.) A stopgap solution was devised to enable Drug Court to better supervise participants while remaining within the confines of its budget. It was decided that Drug Court would hire certified law enforcement officers to work primarily in the field on a part-time basis to assist in supervising participants. The Judge hired Pete Samples, a veteran law enforcement officer who lived and worked in Benton County and had previously worked in law enforcement in Tippah County. He was also quite familiar with Marshall County. He could work part time and conduct home visits and curfew checks on participants in Marshall and Tippah counties. This could be done much more efficiently (cheaper) than hiring a full-time person from Oxford who would have to travel longer distances.

To pay this new part-time staff member, it was necessary he be placed on the payroll of Lafayette County, the Drug Court's lead county. Once again, Lafayette County would advance the funds for this position and be reimbursed at the end of each month by the state. To facilitate

this new hire, Mr. Vance, the drug court coordinator, contacted the County Administrator and explained the hire, asking that Mr. Samples be placed on the payroll. Some time later, the County Administrator contacted Mr. Vance and told him he needed to come before the Board of Supervisors and explain the request. Mr. Vance dutifully complied. When he appeared before the Board, Mr. Vance was told that the Board would not approve the hiring of this part-time person until the question of rent was resolved. This action was taken by the Board at a meeting on February 12, 2010, according to the minutes of the Board. It was at this point that the Lafayette County Board of Supervisors grossly exceeded their authority.

The Lafayette County Board of Supervisors was not required to serve as lead county and administer the funding for Drug Court, but it agreed to do so. As previously explained, a lead county does not enjoy discretion in how the money is spent. Moreover, the Board does not have the prerogative to withhold necessary funds for operation of Drug Court for the purpose of extracting payment to the county. The sole responsibility of a lead county is to serve as a conduit for funds from the AOC to the Drug Court and to properly administer the State's funding, which means to observe state purchasing laws and follow state audit procedures.

After this unfortunate action, the Court elected to do nothing for a while. Drug Court could struggle along without the part-time position, and in the meantime, hope the Board would reconsider its position.

The Court then received another call from Mr. O'Donnell, indicating he still intended to contact the other counties to see if they would voluntarily contribute towards the rent demanded by the Lafayette County Board of Supervisors. Mr. O'Donnell appeared to be genuinely trying to satisfy his Board's demand without impeding the function of the Drug Court. Nonetheless, at

this point, it became apparent to the Court that this matter could never be resolved satisfactorily without direct judicial intervention.

On April 15, 2010, the undersigned Judge sent a letter to Mr. O'Donnell informing him that the Court did not wish for him to contact the other counties to help solve the issue of rent, to let him know to advise the Board that Drug Court would seek from the AOC a budget amendment to pay rent of \$2,000 per month to Lafayette County, and to forewarn the Board of the impendency of this Order.

Within a few days of receiving the letter from the Court, the Board voted to discontinue administration of the Drug Court funds. That meeting was held on May 3, 2010. After the Board took the vote, the board attorney, Mr. O'Donnell, contacted the AOC to seek advice on the procedure for ceasing to serve as administrator for the Drug Court funding. The Court learned of this activity from a subsequent call from the AOC. The County has never contacted the Court about this action.¹¹

Remedy

As stated earlier, Lafayette County was never obligated to serve as lead county and is free to cease from doing so. However, the County is not free to act in a manner which disrupts the independence of the judiciary or the operation of the Court. The Drug Court obviously will be required to identify another county within the district to serve as administrator for its funding, if

¹¹ Adult felony drug courts are currently established in Mississippi only by the action of judges who volunteer to create them. There is no additional salary associated with acting as a drug court judge. Certainly, this is one reason that there are not drug courts uniformly accessible to citizens of the state. While counties throughout the State of Mississippi are clamoring to have drug courts located in their county, it appears a majority of the Lafayette County Board of Supervisors is doing all in its power, and even exceeding its power, to rid this County of its Drug Court. It is a puzzling, if not sad, state of affairs.

necessary.¹² In the meantime, Lafayette County must be required to continue to fulfill its obligation to administer the Drug Court funding to avoid disruption of service.

Guidance for this Court from the Mississippi Supreme Court is found in *Hosford v. State*, 525 So. 2d 789 (Miss. 1988). Although factually different (the Green County Board of Supervisors failed to provide adequate court facilities for Circuit Court), the legal analysis is instructive. In defining the roles of the Legislative branch of government and the judiciary, the Supreme Courts states as follows:

Of course, courts very largely are supplicants of the Legislative branch, with that branch providing the funds and facilities for courts to operate. And, it is not what judges individually or collectively think they should receive which controls, but what the Legislature in its wisdom decides. This discretionary authority of the Legislature is wide indeed, but it does not cover quite all the spectrum. If it fails to fulfill a constitutional obligation to enable the judicial branch to operate independently and effectively, then it has violated its Constitutional mandate, and the judicial branch has the authority as well as the duty to see that courts do not atrophy. No court created by the Constitution is required to accept conditions which prevent it operating independently and effectively. Such court also has the duty under our governmental system to protect its own integrity. It likewise has the inherent authority as part of a separate and co-equal branch to make such orders to insure that independence and integrity. *Id.* at 797-98.

The Supreme Court further discusses the role of the judge in protecting the judiciary:

The judicial branch is set apart to decide controversies in which the judges themselves are above the fray, and can sit dispassionately because they have no personal interest in the issues before them. This one fact is most responsible for the respect and confidence which people have in their judges. Conversely, the darkest cloud which can be cast upon a judge's honor is suspicion that he has a personal interest in a case. Judges are after all, impartial and have no interest except to use their best judgment in making a decision.

¹² Union County has agreed to serve as lead county, but it must be given a reasonable period of time to prepare its county offices to perform this service for the Court and the citizens.

In the invidious situation, however, in which a court must preserve and protect its own independence, the judge of necessity must place himself in a position of being thought a partisan. It is a situation no judge would wish upon himself. Yet there is no fourth branch of government to turn to for protection. Only the judiciary can protect itself. *Id.* at 798.

For the reasons stated herein, the Court ORDERS AND DIRECTS that the Lafayette County Board of Supervisors shall do as follows:

- 1) Cease and desist from interfering with the independent operation of the Courts, including the Circuit Court and Third Circuit Drug Court; and
- 2) Immediately place Pete Samples on the rolls of the Lafayette County employees so that he may begin to serve in the part-time position to which he has been appointed by Drug Court; and
- 3) Continue to administer funding for Drug Court and comply with all appropriately authorized requests made by Drug Court, in full compliance with the terms of this Order, until replaced by a new lead county and upon being so notified by the Court; and
- 4) Take any and all steps, ordinary or extraordinary, necessary to fully comply with the terms of this Order.

A copy of this Order shall be served by the Lafayette County Sheriff upon the Clerk of the Board, as well as upon each of the supervisors individually.

Should the Board of Supervisors desire to contest any portion of this Order, then in such event, they are directed to file a motion with the Court within a reasonable time, seeking clarification, modification, or correction. Any such motion shall specifically identify the relief requested by the Board so that the Court can then determine whether any requested modifications to this Order may be considered by the Court with or without the necessity of a hearing.

The terms of this Order shall take effect immediately upon entry and remain in effect until and unless modified.

ALL OF THE FOREGOING BEING SO ORDERED AND ADJUDGED, this the
17th day of June, 2010.


CIRCUIT COURT JUDGE



MISSISSIPPI DRUG COURT RULES

**As Promulgated
By The
State Drug Court Advisory Committee**

EXHIBIT

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MISSISSIPPI DRUG COURT RULES

**As promulgated
by the**

**STATE DRUG COURT
ADVISORY COMMITTEE**

*Distributed by the
Administrative Office of Courts
As amended August 2006*

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END

Section 1. Applicability

These rules apply to any person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides or intends to provide certified drug court services pursuant to section 11 of the Alyce Griffin Clarke Drug Court Act. *See Miss. Code Ann. § 9-23-11 (Supp. 2003).*

Section 2. Approval Requirements

Any person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides or intends to provide any certified drug court service to or for persons ordered by the court to participate in the certified drug court must submit to the requirements for certification. A drug court may not offer drug court services unless approved and certified by the Administrative Office of Courts.

Section 3. Definition of Terms

The following terms, when used in these rules, shall have the meanings below unless the context clearly indicates a different meaning:

“Addiction treatment services” means a broad range of planned and continuing care, treatment, and rehabilitation, including, but not limited to, counseling, psychological, medical, and social service care designed to influence the behavior of individual alcohol abusers or drug abusers, based on an individual treatment plan.

“Alcohol abuse” means the use of alcohol in a way that harms the individual or society.

“Alcoholism” means physical or psychological dependence on the use of alcohol.

“Case management” means goal oriented activities that facilitate, coordinate, or monitor the full range of basic human needs, treatment, and service resources and delivery for individual certified drug court participants.

“Case manager” means a drug court team member responsible for managing a number of individual drug court participants and the participant’s respective case files.

“Case termination” means following the procedure for terminating a participant’s court imposed obligation to participate in the services of a certified drug court.

“Certified drug court” means a drug court that has successfully applied for and has received a certification of approval from the Administrative Office of Courts.

“Certified services” include the services a certified drug court may provide under Miss. Code Ann. § 9-23-13 but do not include addiction treatment services or chemical testing services.

“Certified Treatment Program” means that a provider of inpatient treatment, inpatient detoxification, intensive outpatient, primary residential, and secondary residential programs be certified by the Mississippi Department of Mental Health, or other appropriate state agency or the equivalent agency of another state.

“Chemical tests” means the analysis of an individual’s: (i) blood, (ii) breath, (iii) hair,

(iv) sweat, (v) saliva, (vi) urine; or (vii) other bodily substance to determine the presence of alcohol or a controlled substance.

“Clinical impression” means a written summary of the observations and conclusions of a person who has or is working to obtain clinical screening staff status based on a clinical screening the person has conducted and within the scope of the person’s training.

“Clinical screening staff” means a drug court staff member or team member who refers the participant to an appropriate treatment provider, evaluates whether the participant meets clinical eligibility requirements for participation in the certified drug court, or both.

“Documentation” means a written record acceptable as evidence to demonstrate compliance with these rules.

“Drug” includes any controlled substance as defined in Miss. Code Ann. § 41-29-105(f) and any drug as defined in Miss. Code Ann. § 41-29- 105(n).

“Drug abuse” means the use of drugs or harmful substances in a way that harms the individual or society.

“Drug addiction” means physical or psychological dependence on the use of drugs.

“Drug court” means an immediate and highly structured intervention process for substance abuse treatment of eligible defendants or juveniles that: (i) brings together substance abuse professionals, local social programs and intensive judicial monitoring; and (ii) follows the key components of drug courts published by the Drug Court Program Office of the United States Department of Justice.

“Drug Court Act” refers to the Alyce Griffin Clarke Drug Court Act. Miss. Code Ann. §§ 9-23-1 to -23 (Supp. 2003).

“Drug court advisory body” is a group of people that the supervising judge may appoint to provide advice on drug court matters.”

“Drug Court Case Management System” also referred to as “DCCM”, it is the official drug court case management system that shall be used by all drug court programs for monitoring and tracking client progress throughout their entire enrollment in drug court.

“Drug court case manager” means an employee of the drug court who provides case management services to clients enrolled in the drug court. Essential functions include; processing forms and reports, compiling data for monthly reporting, and maintaining case files.

“Drug court coordinator” means the administrative head or person responsible for the management and coordination of certified drug court functions and operations. This person is responsible for the certified drug court’s compliance with these rules and provides the daily supervision of the drug court’s staff and coordination of the drug court team members.

“Drug court field officer” means an employee of the drug court who provides supervision and casework services to clients enrolled in drug court. Essential functions generally include enforcing probation agreements, drug testing of clients, and compiling data for monthly reporting.

“Drug court judge” means the judicial officer who presides over a certified drug court.

“Drug court treatment counselor” means an employee of the drug court who provides treatment and counseling services to clients enrolled in the drug court program.

“Drug court services” means a broad range of planned care, including intervention, clinical screening, referral, case management and monitoring that may be extended to a certified drug court participant and that influence the behavior of the participant toward identified goals

and objectives. The services and the manner in which they are provided are guided by the ten (10) key components and/or the sixteen (16) juvenile drug court strategies.

“Drug court team” has the meaning set forth in section 15(a).

“Eligibility screening” means a procedure for determining a potential participant’s legal eligibility for admission to the certified drug court under Miss. Code Ann. § 9-23-15 and court guidelines.

“Evaluation” means a systematic process used to assess the certified drug court’s process or outcomes in light of identified goals and objectives.

“Harmful substance” means any substance used by an individual to produce the effect of a controlled substance or drug, although the substance is not classified as a controlled substance under current Mississippi law.

“Juvenile Drug Court Strategies” means the sixteen (16) strategies of juvenile drug courts as published by the United States Department of Justice, Bureau of Justice Assistance.

“Participant” means any person who has signed a participant agreement or has begun receiving certified services, whichever happens first. However, for the purposes of orientation and confidentiality (sections 19 and 20), “participant” means any person who has applied for services from the certified drug court.

“Participant orientation” means the administrative process conducted before or after a participant is admitted to a certified drug court.

“Policy” means a statement of the principles that guide and govern the activities, procedures, and operations of a certified drug court.

“Pre-existing drug court” means a drug court that began operation prior to October 1, 2004.

“Procedure” means a series of activities designed to implement certified drug court goals or policy.

“State Drug Court Advisory Committee” is an eleven (11) member committee appointed by the Supreme Court of Mississippi whose directive is to provide recommendations to the Chief Justice and other state officials concerning the improvement to drug court policies and procedures.

“State Drug Court Coordinator” has the primary responsibility for facilitating development, certification, oversight, and support of all drug courts operating in the State of Mississippi.

“Substance” means any drug, controlled substance, or alcohol.

“Substance abuse” means the use of alcohol or other drugs to an extent that harms the individual or society.

“Supervising judge” means the judge who has ultimate responsibility for a certified drug court. This may or may not be the same person as the drug court judge.

“Ten (10) key components” means the ten (10) key components of drug courts published by the Drug Court Program Office of the United States Department of Justice.

“Volunteer” means a person who, without direct financial remuneration, provides ongoing services to the certified drug court.

Section 4. Compliance

(a) The Administrative Office of Courts may take the administrative actions necessary to ensure compliance with these rules, including, but not limited to reviews, surveys, or inspections which may or may not be scheduled or announced.

(b) In order for a certified adult drug court to secure and retain a certificate of approval, it must demonstrate compliance with the *key components* and standards imposed by these rules in the following manner:

(1) the certified drug court must comply with all of the standards for a certified drug court; and

(2) a certified drug court that demonstrates compliance with all the standards for a certified drug court shall be issued a certificate of approval that is valid for a three-year period from the date of issue, unless otherwise revoked.

(c) In order for a certified juvenile drug court to secure and retain a certificate of approval, it must demonstrate compliance with the juvenile drug court *strategies* and standards imposed by these rules in the following manner:

(1) the certified drug court must comply with all of the standards for a certified drug court; and

(2) a certified drug court that demonstrates compliance with all the standards for a certified drug court shall be issued a certificate of approval that is valid for a three-year period from the date of issue, unless otherwise revoked.

(d) A certified drug court is in compliance with a standard only when it has met all requirements contained in the standard.

(e) Unless otherwise indicated, these rules and any amendments to these rules take effect thirty (30) days after they are adopted by the State Drug Court Advisory Committee.

Comments on Section 4(b). The term "key components" refers to the current ten (10) key components of drug courts as published by the Drug Courts Program Office of the United States Department of Justice. The ten key components are listed as follows:

- 1. Drug courts integrate alcohol and other drug treatment services with justice system case processing.*
- 2. Using a non adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.*
- 3. Eligible participants are identified early and placed promptly in the drug court program.*
- 4. Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.*
- 5. Abstinence is monitored by frequent alcohol and other drug testing.*

6. *A coordinated strategy governs drug court responses to participant compliance.*
7. *Ongoing judicial interaction with each drug court participant is essential.*
8. *Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.*
9. *Continuing interdisciplinary education promotes effective drug court planning, implementation and operations.*
10. *Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court effectiveness.*

Comments on Section 4(c). The term "strategies" refers to the current sixteen (16) strategies of juvenile drug courts as published by the United States Department of Justice, Bureau of Justice Assistance. The sixteen key strategies are listed as follows:

1. *Collaborative Planning* - Engage all stakeholders in creating an interdisciplinary, coordinated, and systematic approach to working with youth and their families.
2. *Teamwork* - Develop and maintain an interdisciplinary, non-adversarial work team.
3. *Clearly Defined Target Population and Eligibility Criteria* - Define a target population and eligibility criteria that are aligned with the program's goals and objectives.
4. *Judicial Involvement and Supervision* - Schedule frequent judicial reviews and be sensitive to the effect that court proceedings can have on youth and their families.
5. *Monitoring and Evaluation* - Establish a system for program monitoring and evaluation to maintain quality of service, assess program impact, and contribute to knowledge in the field.
6. *Community Partnerships* - Build partnerships with community organizations to expand the range of opportunities available to youth and their families.
7. *Comprehensive Treatment Planning* - Tailor interventions to the complex and varied needs of youth and their families.
8. *Developmentally Appropriate Services* - Tailor treatment to the developmental needs of adolescents.
9. *Gender Appropriate Services* - Design treatment to address the unique needs of each gender.
10. *Cultural Competence* - Create policies and procedures that are responsive to cultural differences and train personnel to be culturally competent.
11. *Focus on Strengths* - Maintain a focus on the strengths of youth and their families during program planning and in every interaction between the court and those it serves.
12. *Family Engagement* - Recognize and engage the family as a valued partner in all components of the program.
13. *Educational Linkages* - Coordinate with the school system to ensure that each participant enrolls in and attends an educational program that is appropriate to his or her needs.
14. *Drug Testing* - Design drug testing to be frequent, random, and observed. Document testing policies and procedures in writing.
15. *Goal Oriented Incentives and Sanctions* - Respond to compliance and noncompliance with incentives and sanctions that are designed to reinforce or modify the

behavior of youth and their families.

16. Confidentiality - Establish a confidentiality policy and procedures that guard the privacy of the youth while allowing the drug court team to access key information.

Section 5. Notification of Intent

Except as provided in section 7, a court shall notify the Administrative Office of Courts during the planning stages of the court's intention to establish a drug court.

Section 6. Initial Certification Procedures

(a) Except as provided in section 7, a court that proposes to establish a certified drug court under the Drug Court Act must:

- (1) submit a standard application form and other materials required under subsection (e), to the Administrative Office of Courts;
- (2) obtain a written statement from the Administrative Office of Courts approving the drug court's application and its plans for operation;
- (3) obtain a provisional certificate of approval from the Administrative Office of Courts under subsection (i); and
- (4) obtain a three-year certificate from the Administrative Office of Courts under subsection (k).

(b) The prospective drug court must have the written statement from the Administrative Office of Courts described in subsection (g), approving the court's application before the court may:

- (1) assess and collect fees under Miss. Code Ann. § 9-23-11; and
- (2) operate as a certified drug court and receive the benefits of the provisions in the Drug Court Act.

(c) A new drug court may not begin the delivery of participant related services until the prospective drug court has received a provisional certificate of approval under subsection (i) or certificate of approval under subsection (k).

(d) The Administrative Office of Courts will forward the applicant, upon request, a standard initial application form.

(e) The applicant shall submit the following to the Administrative Office of Courts:

- (1) a letter requesting approval to begin the drug court certification process; and
- (2) the completed application form and any supporting documents.

(f) Upon receipt of all required documents, the Administrative Office of Courts will review the materials submitted. The Administrative Office of Courts may conduct an on-site visit to determine whether all requirements for certification have been met. The Administrative Office of Courts must offer recommendations or suggested corrections as are necessary and appropriate.

(g) The Administrative Office of Courts must determine if a prospective drug court's application should be granted or denied. If the Administrative Office of Courts finds that the applicant is in compliance with all applicable requirements, the Administrative Office of Courts must provide the applicant with a written statement approving the drug court's application and plans for operation. Denial of an application will follow procedures outlined in section 8.

(h) After a prospective drug court has received a written statement from the Administrative Office of Courts approving the drug court's application and plans for operation, the operation of the certified drug court is established. Upon establishment of a certified drug court, the court:

- (1) must establish procedures, required by these rules, concerning the receipt of, accountability for, and disbursement of fees collected and other revenue or monies received; and
- (2) may set and require the assessment and collection of fees authorized by Miss. Code Ann. § 9-23-11(7)(b).

(i) At least thirty (30) days prior to a scheduled site visit the applicant shall submit a policy and procedures manual developed in accordance with these rules. After a drug court's application and policy and procedures manual have been favorably reviewed and the site visit has been conducted, the Administrative Office of Courts may issue a provisional certificate of approval authorizing the drug court to begin the delivery of services as a certified drug court. Provisional approval is valid for one hundred eighty (180) days of operation during which the Administrative Office of Courts will review the certified drug court's actual delivery of services and record keeping practices. This provisional certificate must be kept on file at the court and a copy shall be kept on file in the Administrative Office of Courts.

(j) Except as provided in sections 8 and 9, the Administrative Office of Courts must approve a properly completed and documented application for certification of a drug court with a written statement of its approval if the court has demonstrated that:

- (1) the certified drug court will provide each of the services and functions it is required to perform under these rules;

(2) based on the certified drug court's policies, procedures, practices, and staff, the certified drug court has the capability to provide the services proposed;

(3) adequate revenues and other resources will be provided to support the certified drug court and its services;

(4) the services of the certified drug court will be delivered through methods likely to assure that participants of the certified drug court will benefit; and

(5) the certified drug court will be operated in compliance with these rules, the requirements of the Drug Court Act, and other applicable federal and state laws.

(k) After the applicant has met all requirements in subsection (j), the Administrative Office of Courts will issue a certificate of approval. The certificate is valid for a period of three (3) years. This document must be kept on file at the court and a copy shall be kept on file in the Administrative Office of Courts.

Section 7. Certification for Pre-existing Drug Courts

(a) The section applies to a pre-existing drug court. A drug court that began operation prior to October 1, 2004, may continue to operate pending certification provided the court follows the procedures outlined in this section for certification of a pre-existing drug court.

(b) Prior to October 1, 2004, the pre-existing drug court must:

(1) notify the Administrative Office of Courts in writing of the date the drug court began operation; and

(2) request an application for initial certification.

(c) Upon receipt of this letter described in subsection (b), the Administrative Office of Courts will issue a provisional certificate to the pre-existing drug court that will be valid for a period of one hundred eighty (180) days. The provisional certificate of approval must be kept on file at the court and a copy shall be kept on file in the Administrative Office of Courts.

(d) While the provisional certificate is in effect, the court may continue to:

(1) assess and collect fees under Miss. Code Ann. § 9-23-11; and

(2) continue its operation as a certified drug court.

(e) The provisionally certified pre-existing drug court must complete an application for initial certification and return it to the Administrative Office of Courts with any other materials requested by the Administrative Office of Courts, no later than one hundred eighty (180) days

after the provisional certificate is issued.

(f) After the Administrative Office of Courts has reviewed the application and accompanying materials the Administrative Office of Courts will schedule and conduct a site visit and certification review.

(g) If the Administrative Office of Courts determines that the requirements of section 6(j) have been met by the pre-existing drug court, the Administrative Office of Courts will issue a certificate of approval that is valid for a period of three (3) years. This document must be kept on file at the court and a copy shall be kept on file in the Administrative Office of Courts.

(h) A provisionally certified pre-existing drug court must comply with these rules and the provisional certificate is subject to revocation for failure to do so.

(i) A pre-existing drug court that obtains initial certification under this subsection must follow the procedures for re-certification described in section 8.

Section 8. Re-Certification Procedures

(a) The certified drug court must follow the procedures described in this section to initiate a re-certification review and obtain re-certification.

(b) Sixty (60) days prior to the actual expiration date of the certificate the drug court must do the following:

(1) notify the Administrative Office of Courts that the certified drug court intends to apply for re-certification and request an application for re-certification;

(2) schedule a review date; and

(3) submit the application for re-certification and all supporting materials to the Administrative Office of Courts no less than thirty (30) days prior to the review date.

(c) Re-certification review may include evaluation of each of the following:

(1) the certified drug court's compliance with the Drug Court Act;

(2) the certified drug court's compliance to these rules;

(3) the number, qualifications, and abilities of certified drug court staff;

(4) the participation by and interaction between the drug court team members;

(5) the qualifications and abilities of any contractor that provides services to the certified drug court or its participants, and the contractor's compliance with the

terms of the contract;

(6) the qualifications and abilities of any treatment provider that provides treatment services to the certified drug court's participants and the treatment providers compliance with the terms of the provider referral agreement;

(7) a review of complaints concerning the certified drug court; and

(8) any other issues or subjects that the Administrative Office of Courts determines are relevant to the review.

(d) Upon completion of the re-certification review, the Administrative Office of Courts may provide an executive summary of the review to the supervising judge and any certified drug court staff the judge wishes to have present. Not later than sixty (60) days after completion of the re-certification review the Administrative Office of Courts must send a final report to the supervising judge and the certified drug court coordinator.

(e) When the certified drug court has satisfied the requirements of this section and the Administrative Office of Courts determines that all standards required by these rules have been met, the Administrative Office of Courts must issue a new certificate for a period of three (3) years. This document must be kept on file at the court and a copy shall be kept on file in the Administrative Office of Courts.

Section 9. Denial of Application for Certification or Re-certification

(a) The Administrative Office of Courts may deny the request for approval of an application for certification or re-certification for any reason enumerated in section 10. If the Administrative Office of Courts determines the request for certification or re-certification of a drug court should be denied, the Administrative Office of Courts must follow procedures required in this section.

(b) The Administrative Office of Courts must notify the supervising judge, by certified mail, return receipt requested, that the Administrative Office of Courts intends to deny the application. The notice of intention to deny must contain all of the following information:

(1) a brief statement explaining the reason for denial;

(2) a statement that the decision to deny the application will become final unless the supervising judge submits written objections to the Administrative Office of Courts within thirty (30) days, stating why the denial should not become final;

(3) a statement that if the supervising judge submits objections to the proposed denial during the thirty (30) days specified in subdivision (2), the drug court's current certificate remains in effect, except in extraordinary circumstances, until the conclusion of negotiations and hearings; and

(4) a statement that in extraordinary circumstances, the Administrative Office of Courts may limit or deny this period of extension if it determines that continued certified drug court operations present an imminent danger to the public health or safety.

If the supervising judge submits written objections, the Administrative Office of Courts must provide full opportunity for adjustment, compromise or settling of all issues.

(c) If the Administrative Office of Courts denies the application for certification a second time after receiving objections, the supervising judge may request a hearing. The request for hearing must be made in writing within fifteen (15) days of the date of the second denial. The Administrative Office of Courts must provide a hearing, if requested. The hearing must be conducted as described in Section 12.

Section 10. Grounds for Denial or Revocation

The Administrative Office of Courts may revoke any current certificate, or deny an application for certification or re-certification for one (1) or more of the following reasons:

- (1) violation of any rule set forth in these rules by the certified drug court, its coordinator, staff or team;
- (2) permitting, aiding, or abetting the commission of an unlawful act;
- (3) conduct or practices found by the Administrative Office of Courts to be harmful to the health or safety of any participant in the certified drug court;
- (4) deviation by the certified drug court from the plan of operation originally certified which, in the judgement of the Administrative Office of Courts, adversely affects the character, quality, or scope of services being provided to participants;
- (5) failure of the applicant or holder of a certificate of approval to cooperate with the Administrative Office of Courts in connection with the certification process or an investigation;
- (6) failure of the applicant or holder of a certificate of approval to provide accurate or reliable information on the application or other written documentation regarding the certified drug court's administrative operations or service delivery practices (omission of information may also be considered grounds for denial or revocation); or
- (7) previous denial or revocation of a certificate of approval.

Section 11. Suspension and Revocation Procedures

(a) Whenever the Administrative Office of Courts determines that any certified drug court may have committed an act, or may have been engaged in conduct or practices justifying revocation of its certificate under these rules, the Administrative Office of Courts must, by certified mail, return receipt requested, notify the supervising judge that the Administrative Office of Courts has requested a hearing under section 12(c) to determine the issue of revocation of the drug court's certificate. Notice of the request for hearing must contain a statement of the matters of law and of fact to be determined at the hearing.

(b) The Administrative Office of Courts may, without notice, suspend any certificate simultaneously with the institution of proceedings, under subsection (a), if the Administrative Office of Courts determines that there is imminent danger to the public health or safety that warrants this action. The suspension continues in effect until the conclusion of all hearings, including any judicial review, unless sooner withdrawn by the Administrative Office of Courts or dissolved by a court of competent jurisdiction.

(c) The Administrative Office of Courts may revoke the certificate of approval or provisional certificate of approval of a certified drug court for any of the following reasons:

- (1) any reason enumerated in section 10(1) through 10(6) as a reason for revoking or setting aside a certificate; or
- (2) failure of a prospective drug court to receive certification within one (1) year from the date that the drug court initiated its application for certification.

(d) Whenever the Administrative Office of Courts determines that any reason exists justifying the revocation of a drug court's certification, the Administrative Office of Courts must observe the procedures required in section 12. The revocation of a certificate to provide drug court services is also revocation of the approval by the Administrative Office of Courts of the application for certification by the drug court.

Section 12. Hearing Procedures

(a) All hearings held to determine issues relating to the denial of an application for certification or re-certification or the revocation of a certificate must follow the procedures described in this section.

(b) A supervising judge who submitted written objections to a denial of an application under section 9(b) may file a request for a hearing. The request must meet the following requirements:

- (1) the request must be in writing and must state the reason for the request;
- (2) the request may not include any reasons that were not included in the objections submitted under section 9(b); and
- (3) the request must be filed with the Administrative Office of Courts within

fifteen (15) days after the second denial of the application under section 9(c).

(c) Within thirty (30) days after the request for a hearing has been filed with the Administrative Office of Courts, a hearing shall be conducted by a hearing examiner who will be selected as follows:

(1) the director of the Administrative Office of Courts shall create a list naming all judges who are members of the SDCAC; and

(2) the supervising judge shall select one (1) name from the list and advise the director of the name selected;

(d) The hearing examiner shall conduct an informal hearing and is not required to follow any formal rules of evidence or procedure, except the following:

(1) at least ten (10) days before the date of the hearing, the hearing examiner shall provide the supervising judge and the Administrative Office of Courts with written notice of the date, time, and place of the hearing;

(2) the party requesting the hearing must show why:

(A) the application meets the certification requirements established by the Administrative Office of Courts; or

(B) revocation of the certificate was unjustified;

(3) either party may submit supporting evidence, if any; and

(4) the hearing examiner shall make an electronic recording of the hearing and may have a written transcript prepared of the electronic recording. The supervising judge may obtain a copy of the electronic recording or the written transcript if a written transcript has been prepared from the Administrative Office of Courts upon payment of the cost of the copy.

(e) Within thirty (30) days after the hearing, the hearing examiner shall submit proposed written findings and recommendations to the supervising judge and the Administrative Office of Courts.

(1) Objections to the findings and recommendations must be in writing and filed with the Administrative Office of Courts no later than fifteen (15) days after the date the proposed findings and recommendations were issued.

(2) The findings and recommendations will be submitted to the SDCAC unless the supervising judge gives written notice with the fifteen (15) day period that he or she has decided to withdraw the appeal.

(3) If no objections are filed and the SDCAC adopts the findings and

recommendations as submitted without a hearing, those findings and recommendations become final.

(4) If either the supervising judge or the director of the Administrative Office of Courts objects to the findings and recommendations, or if the SDCAC proposes to modify or reject the findings and recommendations in the absence of any objections, SDCAC must conduct a hearing and provide the supervising judge and the director of the Administrative Office of Courts with an opportunity to be heard orally concerning the findings and recommendations. At least ten (10) days before the hearing, the Administrative Office of Courts must give written notice of the date, time, and place of the hearing to the supervising judge.

(5) SDCAC's findings and recommendations must be adopted by a majority vote of the members present and voting.

Section 13. Notice of Change

(a) Any applicant or holder of a certificate of approval shall give written notice to the Administrative Office of Courts of any change of supervising judge, drug court judge, or drug court coordinator. Notice of the change shall be submitted to the Administrative Office of Courts not later than thirty (30) days after the change takes effect. The Administrative Office of Courts may require a new application and review as a result of the change.

(b) Failure of any applicant or holder of a certificate of approval to provide written notice of any change described in subsection (a), to the Administrative Office of Courts may result in the certificate of approval becoming void.

(c) Any court that terminates its certified drug court must provide the Administrative Office of Courts a written Notice of Intent, at least thirty (30) days prior to termination of its certified drug court, outlining its intent and reasons for termination.

Section 14. Funding Authorization

A drug court that is not certified by the Administrative Office of Courts, and an applicant whose plan of operation does not comply with the requirements of certification under these rules is not entitled to receive a favorable review or recommendation from the Administrative Office of Courts on any application for funding of services from state, federal, or private funding sources.

Section 15. Drug Court Management

(a) A certified drug court must have a drug court team which, at a minimum, consists of the following members:

(1) the drug court judge;

(2) the local prosecuting attorney or a representative from the prosecuting attorney's office;

(3) a local criminal defense attorney;

(4) one (1) or more local treatment providers; and

(5) the drug court coordinator.

(b) The drug court team must establish a policy and practice regarding regular meetings to discuss the compliance or non-compliance, progress, sanctions, or termination of participants prior to the participants' scheduled court appearances.

(c) The certified drug court shall maintain on file a description of the members of the drug court team and of the advisory body if one has been appointed.

(d) The drug court coordinator is responsible for the daily operation and administration of the certified drug court.

(e) The drug court coordinator shall be responsible for maintaining an accurate and current listing of all persons with access to the Drug Court Case Management System (DCCM).

(f) The drug court coordinator shall be responsible for ensuring that all users sign a confidentiality form prior to receiving access, as well as, assigning users appropriate levels of access thus maintaining the confidentiality of information contained within the Drug Court Case Management System (DCCM).

(g) The certified drug court must have a written statement of the goals and objectives in its policy and procedure manual that clearly reflects the certified drug court's philosophy and guides the operation of the certified drug court and the delivery of services. The drug court coordinator must review the statement annually and revise it as necessary.

(h) A certified drug court must have a policy and procedure manual that contains written policies and procedures for conducting day-to-day certified drug court activities. A certified drug court must do each of the following:

(1) incorporate the key components into its policies, procedures, and practices;

(2) update the manual as needed, but at least annually;

(3) make the manual available to the drug court team and staff; and

(4) verify that all practices are in keeping with the policies and procedures contained in the manual.

(i) The written policies and procedures of a certified drug court must include each of the

following:

(1) full documentation of the certified drug court's operational and administrative structure including one (1) or more organizational charts that:

- (A) depict certified drug court lines of authority;
- (B) identify all staff positions; and
- (C) accurately reflect current certified drug court practice;

(2) a description of staff functions;

(3) a description of the procedures the certified drug court will use to implement the principles and guidelines;

(4) a description of the criteria for the acceptance of substance use-involved offenders as participants who are eligible to receive one (1) or more services provided by the certified drug court;

(5) a policy and practice of nondiscrimination in providing drug court services, which must address nondiscrimination on the basis of each of the following:

- (A) race;
- (B) gender;
- (C) age;
- (D) religion;
- (E) ethnicity; and
- (F) disabilities;

(notwithstanding the policy and practice of nondiscrimination on basis of age, an adult drug court may exclude juveniles from participating, and a juvenile drug court may consider juveniles who are waived into adult court or excluded from juvenile court to be ineligible); and

(6) a policy and procedure for providing referral information to individuals denied admission to the certified drug court.

(j) Any time a certified drug court refers a participant to a provider for addiction treatment services not provided by the certified drug court, the certified drug court must do the following:

(1) determine annually that the addiction treatment services provider is certified by the State Department of Mental Health, or other appropriate state agency, or the equivalent agency of another state and obtain a copy of:

- (A) the provider's accreditation if the provider is an agency; and
- (B) the credentials of all individual treatment providers.

(k) Drug courts are encouraged to have a written referral agreement with the addiction treatment services provider that at a minimum includes procedures for the following:

- (1) initiation and acceptance of referrals;
- (2) exchange of participant-related information; and
- (3) post-referral reporting by the addiction treatment services provider that enables the drug court to perform its participant-monitoring responsibilities.

(l) A certified drug court may contract with a person, firm, corporation, association, or governmental entity, to provide one (1) or more services for the drug court except legal eligibility determination and case termination. A contractor must possess and demonstrate the capability to provide contractual services for the drug court in the manner intended and meet all requirements contained in these rules that apply to the services the contractor will provide.

Section 16. Drug Court Staff Requirements

(a) A certified drug court must have policies and procedures describing staff qualifications.

(b) A certified drug court must have written evidence that the Drug Court Coordinator and/or the Drug Court Case Manager achieved professional status by complying with the following:

- (1) a baccalaureate degree from an accredited university or college; or high school diploma or equivalent and four (4) years of relevant experience; and
- (2) twelve (12) hours of continuing education or training in substance abuse and criminal justice issues.

If the judge is unable to find a coordinator or case manager with the above requirements, the judge may request a waiver from the Administrative Office of Courts prior to hiring the employee.

(c) An individual will be allowed one (1) year cumulatively, from the date of first hire, as a drug court coordinator or case manager to achieve professional status.

(d) Professional status, once achieved, is maintained by documenting twelve (12) hours annually of continuing education or training related to substance abuse and criminal justice issues.

(e) A certified drug court must have written evidence that a Drug Court Field Officer and/or a Drug Court Treatment Counselor who are employed by the drug court program are in compliance with all experience and educational requirements of set forth in the Mississippi Drug Court Fiscal Policy manual for said positions.

(f) A certified drug court must have evidence that a

(g) Status of specimen collection staff.

(1) A certified drug court must require all of its employees, contractors, or volunteers performing specimen collection to have training and experience in each of the following:

- (A) the administration of chemical tests;
- (B) specimen collection;
- (C) chain-of-custody and documentation procedures;
- (D) confidentiality of specimen collection and chemical test results; and
- (E) the proper handling of specimens as biological waste.

(2) An individual will be allowed ninety (90) days cumulatively from the date of first hire to attain and document training as a member of the specimen collection staff.

Section 17. Reports and Evaluations

(a) A certified drug court must collect statistical data and submit to evaluations as required by the Administrative Office of Courts.

(b) A certified drug court must provide each participant with an opportunity to complete a participant survey intended to provide the certified drug court with the participant's written comments about the services provided. The survey must include an opportunity to comment on the following:

- (1) services provided directly by the certified drug court;
- (2) services provided by the certified drug court through a contractor; and
- (3) services or treatment provided by referral agency.

(c) The supervising judge or drug court judge shall do the following:

(1) complete a monthly programmatic report and submit it to the Administrative Office of Courts no later than the 10th of each month that details information pertaining to clients enrolled in the drug court program; and

(2) prepare and submit a written annual report to the Administrative Office of Courts no later than ninety (90) days after the close of the certified drug court's reporting period that includes:

- (A) a summary of the certified drug court's activities and

- accomplishments;
- (B) a summary of the certified drug court's income and expenditures;
- (C) documentation of any certification reviews or visits, if applicable; and
- (D) statistical data and results of evaluations for the preceding year.

Section 18. Eligibility Screening

A member or members of the drug court team, or person designated by the team, must be designated to conduct eligibility screenings. The designated member or members of the drug court team must do each of the following:

- (a) determine the offender's legal eligibility for drug court under Miss. Code Ann. § 9-23-15; and
- (b) recommend the offender to the drug court team as a potential participant in the certified drug court if appropriate.

Section 19. Orientation

(a) A certified drug court must have and observe a written policy and procedure for conducting an orientation for each participant, and when appropriate, the participant's family. Orientation may be conducted during an individual or a group appointment and must include explanations of the following:

- (1) specific eligibility requirements for drug court participation;
- (2) the services offered by the certified drug court either directly or through referral;
- (3) the requirements for successful completion of certified drug court, including a description of the scheduling and attendance requirements for court dates, chemical testing, day reporting, appointments with case managers or treatment providers, self help and other group meetings, and other regularly scheduled requirements;
- (4) conduct and behavior that could result in sanctions or termination from drug court;
- (5) possible sanctions for non-compliance with drug court requirements;
- (6) information about the treatment providers used by the drug court; and
- (7) information about the cost to participants for the user fee, chemical testing, and treatment expenses, and the procedure and schedule for paying those costs.

- (b) A certified drug court must have a form to advise each participant in writing of the

information described in subsection (a). The form must contain a signature line or a signature page for the participant to indicate that the participant has been provided a copy of the form and understands the information provided. The certified drug court must place the form or the signature page with the participant's original signature in the participant's record.

Section 20. Privacy and Confidentiality of Records

(a) A certified drug court must respect the privacy of each participant to the maximum extent feasible. The drug court must specify in policy and procedure how participant privacy is maintained.

(b) A certified drug court must have a written policy and procedure, conforming to applicable state and federal laws, that ensures the confidentiality and security of participant records.

(c) A certified drug court must have a release of information form used to inform each participant in writing of the certified drug court's policies and procedures described in subsection (a), and to obtain the participant's consent for the release of confidential information to specified individuals for certain purposes. The form must meet the following requirements:

(1) contain a statement indicating that the participant understands that matters relating to the participant's case and compliance will be discussed in open court;

(2) contain a signature line for the participant to indicate that the participant understands the rights described in the form;

(3) contain a signature line for a witness; and

(4) any blank lines remaining after the form has been completed must be crossed out or marked "NA" to ensure the forms cannot be altered after being signed by the participant.

The certified drug court must place the form with the participant's original signature in the participant's record.

(d) A certified drug court must ensure that access to the Drug Court Case Management System (DCCM) is controlled from unauthorized access to confidential information contained within the client's file by assigning users of the system appropriate levels of access.

Section 21. Screening

(a) A certified drug court must have a written policy and procedure for scheduling and conducting a participant screening.

(b) The screening must include a social history of the participant that provides, at a

minimum, information about the following:

- (1) statement of the presenting problem;
- (2) social, peer group, and environmental setting from which the participant comes;
- (3) military service history;
- (4) financial status;
- (5) alcohol and drug use of family members and attitudes toward such use;
- (6) occupational and educational status;
- (7) legal history and current legal status;
- (8) history of medical problems;
- (9) history of mental health problems; and
- (10) current thoughts of suicide or homicide.

(c) The screening must include an alcohol and drug use history of the participant, including information about prescription and over-the-counter drug use, that provides the following information:

- (1) substances used in the past;
- (2) substances used frequently, especially those used within the last forty-eight hours;
- (3) substances of preference;
- (4) frequency of drug use of each substance;
- (5) previous occurrences of overdose, withdrawal, or adverse drug reaction;
- (6) year of first use of each substance;
- (7) method of administration of each substance; and
- (8) history of previous substance abuse treatment received.

Section 22. Treatment Plan

The certified drug court must obtain a written copy of the treatment provider's initial or master treatment plan for each participant and any updates to that plan.

Section 23. Participation Agreement for Adult Drug Courts

(a) A certified drug court must develop a participation agreement that must contain each of the following:

- (1) the county of jurisdiction of the certified drug court;
- (2) all parties to the participation agreement;
- (3) the terms under which the participant enters the program, whether as a result of a guilty plea, a condition of probation, or the result of a violation of probation;
- (4) the case number or cause number;
- (5) the length of the drug court program;
- (6) a list of drug court requirements and participant responsibilities;
- (7) the effect of successful completion of drug court on the participant's case;
- (8) the consequences to the participant of unsuccessful completion or termination in the drug court;
- (9) information related to drug court fees and procedures for payment; and
- (10) a statement, if applicable, indicating that participation is contingent upon the participant's consent to the discussion in open court of information that would otherwise be confidential, relating to the participant's case and compliance.

(b) A certified drug court must provide each participant the opportunity to review the participation agreement with the advice of counsel.

(c) The participation agreement must include the signature of all parties to the agreement. A copy of the signed participation agreement must be maintained in the participant's record.

Section 24. Case Management

(a) The Drug Court Case Management System (DCCM), (from release of) shall be the primary case management system used by all certified drug court programs. The DCCM shall be used to track client progress from initial screening and throughout the program until release from the drug court's supervision.

(b) A certified drug court must have a policy and procedure in place for recording

participant progress in the record of the participant.

(c) The certified drug court must monitor the progress of each participant in satisfactorily completing the participant's treatment plan and participation agreement and other requirements governing the participant's conduct or performance during participation in the certified drug court. The monitoring procedure must, at a minimum, be capable of determining participants who have:

- (1) failed, as scheduled or required, to comply with the treatment plan;
- (2) failed to comply with the participation agreement or with the rules of conduct of a service provider to which the participant was referred; or
- (3) been successfully or unsuccessfully discharged or terminated by a service provider to which the participant was referred.

(d) The certified drug court shall establish a written policy and procedure for:

- (1) terminating a participant's court imposed obligation to participate in the certified drug court; and
- (2) providing written notice to the court after the participant has:
 - (A) successfully complied with the treatment plan and the participation agreement; or
 - (B) violated any requirement of the treatment plan or the participation agreement.

Section 25. Fiscal Management

(a) The certified drug court must have developed and implemented an accounting system with the capability to ensure financial transactions are thoroughly documented and handled in a uniform and consistent manner.

(b) The certified drug court must have a current budget.

(c) The certified drug court must have a documented schedule of fees.

Section 26. Personnel Management

(a) The certified drug court must adhere to a written personnel policy and procedure manual, which must contain at a minimum:

- (1) employment procedures;
- (2) rules for professional conduct;

(3) wages and benefits; and

(4) job descriptions for all personnel and volunteers, which accurately reflect their actual job situations, and describe, at a minimum:

- (A) job title;
- (B) qualifications;
- (C) credentials, if applicable;
- (D) duties and responsibilities; and
- (E) reporting and supervisory responsibilities.

(b) The certified drug court must keep records for all staff that contain the following information:

- (1) application or resume;
- (2) credentials;
- (3) verification;
- (4) licensure when applicable;
- (5) performance evaluations;
- (6) salary and position changes; and
- (7) documentation of staff development activities.

In addition a juvenile drug court must keep the criminal records check and child abuse registry check conducted for each staff member prior to the staff member's employment.

Section 27. Chemical Testing

(a) A certified drug court must establish and follow a written policy and procedure for scheduling and conducting chemical tests.

(b) At a minimum the policy on chemical tests must address the following:

- (1) the specific method or methods of chemical testing used by the drug court;
- (2) what samples the drug court collects and tests, such as urine, blood, breath, sweat, saliva, and hair;
- (3) substances identified by the tests;
- (4) the cutoff level for each substance;

- (5) circumstances requiring a confirmation test, if any;
- (6) the drug court's procedures for confirmation including the type of confirmation test used;
- (7) the party responsible for paying the cost of a confirmation test; and
- (8) collection procedures including staff training and chain of custody.

END

MISSISSIPPI DRUG COURT FISCAL POLICY

**As promulgated
by the**

**STATE DRUG COURT
ADVISORY COMMITTEE**

*Distributed by the
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(Revised Edition: January 2010)

EXHIBIT

3

BACKGROUND

Certified drug court programs operating in Mississippi may qualify for state funding. The source of the funding comes from a bill passed by the Mississippi Legislature during its 2004 Regular Session. The purpose of this funding, which was created through assessments under MS. Code Annotated §99-19-73, is to provide supplemental funding to all certified drug court programs operating in Mississippi. Distinct guidelines and standards have been created by the State Drug Court Advisory Committee and must be met by the drug court program in order to receive and maintain funding. Failure to meet these guidelines and standards can result in the loss of funding for a drug court program.

REQUIREMENTS FOR APPLYING

Any drug court seeking access to state drug court funds must meet the following requirements: Drug courts must have received a Certificate of Approval or a Provisional Certificate of Approval as a Certified Drug Court Program through the Administrative Office of Courts; At a minimum, the drug court judge and the drug court coordinator must have attended a federal drug court training program; show proof that the drug court program, in good faith, has pursued or is pursuing the federal grant monies that are available; and the drug court must not be currently funded by federal grants or other state, local, or private funding.

BUDGET INFORMATION

The program year for the Mississippi Drug Court Program shall coincide with the County Fiscal year beginning October 1 and ending September 30 of the following year. Each court is required to submit an annual request for program funding to the Administrative Office of Courts, no later than sixty (60) days before the beginning of each program year. The request should be submitted to:

Administrative Office of Courts
P.O. Box 117
Jackson, MS 39205

Individual courts are encouraged to review their prior year expenditures to date as part of the request process. Each court must provide justification for the requested funding by submitting a budget with a request for funding. Budgets must be submitted on approved AOC forms. Final appropriations for each drug court shall be established no later than September 15.

During the initial year, startup drug courts shall report monthly as other drug courts and shall show a steady progress of growth toward their budgeted goal. If absence of reasonable progress is shown, the State Drug Court Advisory Committee will consider warnings, sanctions, or reductions in reimbursement amounts.

BUDGET JUSTIFICATION

The following budget line items, if requested, should include detailed information to assist the Administrative Office of Courts in determining the proper amount of funding for your drug court program.

BUDGET CATEGORIES

Administrative/Personnel

The primary functions for which costs are considered administrative include: overall management and coordination; preparation of plans, budgets, reports, and schedules; and case management and supervision of clients.

Include the annualized salary or wage basis for all drug court program staff whose salaries are paid in whole, or in part, using drug court funding. This listing may include the drug court coordinator, case manager, and supervision officers. All salaries shall be limited to the current pay scales of similar or equivalent positions as defined by the Mississippi State Personnel Board.

Note: Please do not include treatment personnel in this category.

Fringe Benefits

All drug court personnel shall receive the same benefits as are received by full-time county employees in the lead county.

Treatment

Include the costs of a drug court's clinical treatment program, including the costs of ASI (or equivalent) screening, detoxification services, inpatient treatment, outpatient visits, etc. If treatment is provided in-house, the salary, fringe benefits, and expense information of these clinicians should be explained under this category. Also, include the costs of any part-time or contract treatment/counseling personnel.

Testing and Laboratory

Include the entire cost of laboratory fees, urine screening and analysis, and materials associated with testing, as applicable. If drug screening is performed in-house, the cost of supplies, reagents, and equipment should be included in this category.

Office Expenses

Include all expenses associated with the physical operation of the drug court. Include the cost of rent, utilities, and maintenance of facilities, as applicable. In addition, include the cost of office supplies, materials, equipment leases, computer and printer supplies,

postage, etc. utilized in the administration of drug court operations. The cost of office equipment or office furniture should be included under the Equipment category.

Other Services

Include the costs of ancillary services provided to drug court participants, such as: auditor's fees; attorney fees; computer and equipment repair; educational, vocational, and other professional services.

Equipment

Include the costs of all non-expendable items to be purchased during the fiscal period. The cost of a single unit of equipment should include related charges for accessories, installation fees, delivery charges, insurance, and taxes, if any. Recipient drug courts are required to be prudent in the acquisition and management of property purchased with the Drug Court Funds. Equipment and office furniture purchased by any drug court program shall be included in and accounted for in the inventory and audit of the lead county or the inventory of the municipality. All equipment shall be purchased in accordance with state law. All equipment must be properly tagged, as required by State and Federal law.

Travel and Training

Include all costs associated with continuing education, training, national or state conferences, membership costs, and meetings directly related to drug court. All out-of-state travel shall be limited to National Drug Court Associations, National Drug Court Institute, National Highway Traffic Safety Administration, Congress of State Drug Court Associations, State Drug Court Associations, or Judicial College sponsored drug court training conferences. All travel reimbursement must comply with the Mississippi Administrative Office of Courts travel guidelines.

Miscellaneous

The miscellaneous budget category includes but is not limited to costs associated with client incentives, awards, graduation ceremonies, etc. Also, miscellaneous funds can be used as matching funds with various enhancement grants. As a guide, the miscellaneous category should represent no more than 5% of the drug court budget.

Grant Matches

To maximize revenue, the State Drug Court Advisory Board will consider allocating funds for implementation and continuation grant match opportunities on a case by case basis.

Training Grants

Drug Court Training Grants may be made available to a drug court program that desires to send its employees and/or "team members" who have never received formal drug court training to participate in the National Drug Court Institute's Comprehensive Drug Court Practitioner Training Series. This is a grant process,

and shall require the Judge to write a letter of justification to State Drug Court Coordinator explaining the need for the employee and/or "team member" to attend the requested training program. Accompanying this justification letter, shall be a letter of commitment from the employee and/or "team member" which at minimum describes the intention of this person to continue working directly with the drug court program for a minimum of 6 months. Each certified drug court program shall be limited to two (2) training slots per year. The amount of these funds are limited to the amount set forth by the State Drug Court Advisory Committee and shall be reviewed annually.

Audits

The use of Public Funds distributed by the Administrative Office of Courts is subject to state audit and must be used in accordance with State law. Each individual drug court is responsible for proper use of public funds allotted to it. In addition, each drug court must provide for an annual independent audit of all funds received from the Administrative Office of Courts. If a drug court is audited at least annually by regular county audits, then this regular audit will be deemed sufficient. A copy of each audit shall be retained in the files of the local court and a copy furnished to the Administrative Office of Courts.

AWARD NOTIFICATION

Upon notification on an approved A.O.C. program appropriation, each court has ten (10) days to submit a Budget Revision to the A.O.C. director, or his designee. This Budget Revision must reflect the appropriate distribution of funds between line items. The total budget provided on the Budget Revision form cannot exceed the amount awarded by the Administrative Office of Courts. Only approved forms should be e-mailed or faxed to the A.O.C. director, or his designee. Original forms, with original signatures, must be mailed to the address listed above, after the e-mailed or faxed form has been sent.

BUDGET REVISIONS

By State law, all budgets of public funds must be in balance in total and between line items. In the event that it becomes necessary to revise a drug court budget due to unforeseen changes in expenditures within a category, each drug court should immediately submit a Budget Revision form to the director of the Administrative Office of Courts.

All recipient drug courts must give prompt notification in writing to the Administrative Office of Courts of events or proposed changes, which may require a budget adjustment. The request shall set forth the reasons and basis for the proposed change and any other data pertinent for review. The Administrative Office of Courts shall render its decision regarding approval of the proposed budget revision(s) in writing within ten (10) working days or receipt of request. All requests for changes to the approved award shall be carefully reviewed by the Administrative Office of Courts for their contribution to the goals and objectives of the Drug Court Program. Only under extraordinary circumstances,

shall retroactive approval be considered to any budget revision request. Once budget revision totals more than 5%, any further modification must receive prior approval by the Administrative Office of Courts. Budget revisions shall be furnished in writing to the Administrative Office of Courts of said modification along with the revised budget.

In completing the Budget Revision form, the following guidelines must be adhered to:

The **Approved Budget** column must be equivalent to the previously provided figures on the Budget form (Attachment 1), provided to the A.O.C. immediately after notification of approved award letter, or previously approved Budget Revision form.

The **Change request + or -** column must total zero. Any increase or decrease to any category must be offset by an equivalent decrease or increase to other categories.

The **Revised Budget** column total must be equal to the Approved Budget column total.

FISCAL REPORTING

Documentation

Documentation deemed acceptable to support activities for services shall be maintained and made available upon request. Demonstrated capacity to provide service delivery, as well as documented performance outcomes, will be taken into consideration for future funding. This documentation should be stored at the drug court's physical location. Each court should determine its own documentation requirements but all courts shall maintain documents in accordance with the lead county or municipality. Each court shall establish, document, and record retention requirements in compliance with applicable governmental or jurisdictional rules and regulations. Acceptable documentation includes but is not limited to the following:

- General Ledger, Spreadsheet or Other Detailed Report of Monthly Expenditures.
- Time sheets
- Invoices
- Receipts
- Accrual Records
- Fixed Assets Inventory Records
- Travel Reimbursement Forms

Administrative/Personnel

1. Time sheets depicting employee's name, time period and number of hours worked.
2. Signed contracts for services; and

3. Paid invoices for treatment services provided.

Treatment Providers

1. Current copy of treatment agreement showing effective and expected termination dates, scope of work, terms of payment, etc.; and
2. Paid invoices for treatment services provided.

Testing and Laboratory

1. Current copy of testing/laboratory agreement showing effective and expected termination dates, scope of work, terms of payment, etc.; and
2. Paid invoices for testing and lab services provided.

Office Expense

Paid invoices on company letterhead depicting item name, unit price, total purchase amount and date of purchase.

Other Services

Paid invoices on company letterhead depicting item name, unit price, total purchase amount and date of purchase, service agreement, or other contracts.

Equipment

1. Paid invoices on company letterhead depicting item name, unit price, total purchase amount and date of purchase;
2. Inventory records;
3. Bid and quote information; and
4. Drug court's purchasing policy.

Travel/Training

1. Travel vouchers;
2. Hotel, airline, railroad and/or rental car receipts/ticket stubs showing date(s) of travel, purpose of travel, employee name(s), and total expense of trip;
3. Travel Reimbursement Forms for automobile travel, date(s) of travel, purpose of travel, employee name, total number of miles, and reimbursement at the currently approved rate per mile, parking, taxi and toll receipts;
4. Conference agenda; and
5. Out-of-state travel shall have a justification statement detailing the benefits

to be obtained by the drug court from the training. This shall be reviewed and will be considered in approving travel and training budgets for the subsequent budget year.

6. The drug court fund will reimburse state employees for drug court travel if they have tried to seek other funding but have failed. State judges must submit an out-of-state travel request to the Supreme Court's fiscal committee before making any travel arrangements. Reimbursements shall be submitted to the State Drug Court Advisory Committee.

Miscellaneous

Paid invoices on company letterhead depicting item name, unit price, total purchase amount and date of purchase, service agreement or other contracts.

FISCAL REPORT

By the 10th day of each month, each drug court program **must** submit to the Administrative Office of Courts a *Fiscal Report*, which details expenditures incurred for the month. All reported expenditures must be supported by the type of documentation listed above each category.

Fiscal Reports may be either e-mailed or faxed to the Administrative Office of Courts by the 10th of each month; however, signed originals must follow by mail to the Administrative Office of Courts.

Each drug court program is responsible for maintaining a monthly file of this documentation that ties the expenditures to the monthly *Fiscal Report*. This file must be readily available for review by A.O.C. monitors.

Each drug court program is responsible for maintaining records to support expenditures for a period of three (3) years for State funds.

Upon receipt and approval of a completed *Fiscal Report*, the Administrative Office of Courts will issue a reimbursement check to the individual drug court program for expenditures reported during a month.

PROGRAMMATIC REPORT

By the 10th day of each month, each drug court program must submit to the Administrative Office of Courts a Programmatic Report, which details the status of clients enrolled in the program.

Programmatic Reports may be either e-mailed or faxed to the Administrative Office of Courts by the 10th of each month; however, signed originals must also follow by mail.

Failure to submit Programmatic Reports by the 10th day of each month may jeopardize the drug court's ability to receive reimbursement in a timely manner.

During the initial year, startup drug courts shall report monthly as other drug courts and shall show a steady progress of growth toward their budgeted goal. If absence of reasonable progress is shown, the State Drug Court Advisory Committee will consider warnings, sanctions, or reductions in reimbursement amounts.

SUPREME COURT OF MISSISSIPPI

Administrative Office of Courts

Annual Drug Court Budget Request

Please complete the following information and return no later than August 1st to the Administrative Office of Courts, P.O. Box 117, Jackson, MS 29205. Faxed copies are acceptable, but Budget Request forms containing the original signature must be mailed by the August 1st deadline.
Telephone: (601)354-7408 Fax: (601)354-7459.

Name of Drug Court: _____
(Mississippi Judicial District, County, or Municipality)

Remittance Address: _____

Phone: _____ Fax: _____ E-Mail: _____

Number of Program Slots Awarded for the previous fiscal year: _____

Average monthly number of clients enrolled in your in your program to date: _____

Using the Per Client Drug Court Appropriation scale, provide the number of clients you intend to base your budget for the fiscal year: _____

Category	A.O.C. Budget		Other Source	Amount	Total Each Row
Administrative/Personnel	\$	+		\$	= \$
Fringe Benefits	\$	+		\$	= \$
Treatment	\$	+		\$	= \$
Testing & Laboratory	\$	+		\$	= \$
Office Expenses	\$	+		\$	= \$
Other Services	\$	+		\$	= \$
Equipment	\$	+		\$	= \$
Travel & Training	\$	+		\$	= \$
Miscellaneous	\$	+		\$	= \$
TOTAL	\$	+	TOTAL	\$	= \$

Sample Drug Court Budget Detail

Allowable Costs

A. Administrative/Personnel

Only personnel who work directly for the drug court program should be included in this section. Personnel information in this section must include each employee's annual salary, either percentage of time on the project of Full-Time Equivalent (FTE) (1 FTE=100 percent), and the duration of the of the budget request period.

Example:

<u>Name/Position</u>	<u>Computation</u>	<u>Costs</u>
Jane Doe/Coordinator	100% time X \$20,000 annual salary X 1 year	\$20,000

B. Fringe Benefits

Fringe benefit costs should be provided for all allowable personnel listed in Section A. The total percentage of the fringe benefit rate must be shown, along with the breakdown of that percentage.

Example:

<u>Name/Position</u>	<u>Computation</u>	<u>Costs</u>
Jane Doe/Coordinator	27.85% fringe benefit rate X \$20,000 annual salary X 1 year	\$5,570

(Fringe Benefit Rate: FICA=6.2%; Medicare=1.45%; Unemployment=0.2%; Health Insurance=20%; Total=27.85%)

C. Treatment

Include the entire cost of a drug court's clinical treatment program, including the costs of ASI (or equivalent) screening, detoxification services, inpatient treatment, outpatient visits, etc. If treatment is provided in-house, the salary, fringe benefits, and expense information of these clinicians should be explained under this category. Also, include the costs of part-time or contract treatment/counseling personnel.

Example:

<u>Item Description</u>	<u>Computation</u>	<u>Costs</u>
Inpatient treatment services	60 clients x \$250 per 42 day program	\$15,000

D. Testing and Laboratory

Included should be costs associated with the drug testing of clients. This can include laboratory

fees, urine screening and analysis, materials associated with testing, as applicable. If drug screening is performed in-house, the cost of supplies, reagents, and equipment should be included.

Example:

Supply Item	Computation	Cost
Instant urine drug test kits	\$330/box x 3 boxes per year x 1 year	\$990

E. Office Expenses

Include all expenses associated with the physical operation of the drug court. Include the cost of rent, utilities, and maintenance of facilities, as applicable. In addition, include the cost of office supplies, materials, equipment leases, computer and printer supplies, postage, etc. used in the administration of the drug court operations. The cost of office equipment or office furniture should be included under the Equipment category.

Example:

Supply Item	Computation	Cost
Office supplies (pens, copy paper, tape, print cartridges, desk calendars, binders)	\$200/month x 12 months	\$2,400

F. Other Services

Include the costs of ancillary services provided to drug court participants, such as: educational, vocational, and other professional services; computer and equipment repair; auditor's fees; and attorney fees.

Example

Item	Computation	Cost
Annual program audit	\$1,200	1,200

G. Equipment

Only non-expendable items should be listed in this category (expendable items should be listed under Supplies or Miscellaneous.) These funds may be used to purchase equipment when current equipment either does not exist or is unable to perform the necessary tasks required in drug court operations. Prior to requesting funds for equipment, applicants should confirm that there is a need and not just a desire for the newest technology and that the equipment will be used by drug court personnel only. Equipment must be used 100 percent of the time for drug court purposes. It is sometimes difficult to break down equipment costs, but they should be itemized to the extent possible.

Example:

Item	Computation	Cost
Computer	\$850	\$850
Laser jet printer	\$350	\$350

H. Travel/Training

Drug court teams are encouraged to use funds to travel to various training programs and conferences sponsored by state and national drug court associations. This is an excellent opportunity to learn new techniques and network with other drug court practitioners. Funds in this category must be broken out. When locations of workshops and/or conferences are not known, applicants are asked to estimate travel costs. We recommend that applicants budget up to \$1,000 per person to attend each conference.

Example:

Purpose of Travel	Location	Item	Computation	Cost
Training Workshop	Unknown	Airfare	\$600 x 6 people	\$3,600
		Hotel	\$100/night x 6 people x 3 nights	\$1,800
		Meals	\$40/day x 6 people x 4 days	\$960
		Ground Transportation	\$20 x 6 people	\$120

I. Miscellaneous

The miscellaneous budget category is included to support ad hoc, non-recurring expenditures, which may arise with a drug court and is not intended to support major drug court program activities. As a guide, the miscellaneous category should represent no more than 5% of a drug courts total budget.

Example:

Item	Computation	Cost
Cash match for grant	25% cash match for \$10,000 grant	\$2,500
Graduation Ceremony	Refreshments for 60+ persons	\$150
	Framed graduation certificates	\$50

SUPREME COURT OF MISSISSIPPI

Administrative Office of Courts

BUDGET REVISION WORKSHEET

Please use this form to complete all budget revisions for the _____ fiscal year.

Name of Drug Court _____ Budget Revision (Circle One) 1 2 3 4

	AOC Budget Amount	Change Request + or -	Revised AOC Budget Amount	Other Source Budget Amount	Change Request + or -	Revised Other Source Budget	Revised Annual Budget
Administrative/Personnel							
Fringe Benefits							
Treatment							
Testing & Laboratory							
Office Expenses							
Other Services							
Equipment							
Travel & Training							
Miscellaneous							
TOTAL	\$	\$	\$	\$	\$	\$	\$

Budget Revision prepared by: _____

Signature: _____

Title: _____

Date: _____

A.O.C. Signature: _____

Date: _____

Return this form to the Administrative Office of Courts, Attention Drug Courts, P.O. Box 117 Jackson, MS 39205-0117
For more information on this form, please contact Joey Craft at (601)576-4631 or by Email: Jcraft@mssc.state.ms.us

SUPREME COURT OF MISSISSIPPI

Administrative Office of Courts

FISCAL REPORT

Expenses Incurred During the Month of: _____

Name of Drug Court _____
(Mississippi Judicial District, County, or Municipality)

This Report was prepared by: _____ Title _____

Phone: _____ Fax: _____ E-Mail: _____

No. of Full-Time Equivalent (FTE) Employees Reimbursed with AOC Funds: _____

Budget Category
Administrative / Personnel
Fringe Benefits
Treatment
Testing & Laboratory
Office Expenses
Other Expenses
Equipment <i>(Attach itemized list of equipment purchased over \$1,000.00 w/ copy of receipt)</i>
Travel & Training
Miscellaneous
TOTAL

Total Monthly Expenditure
\$
\$
\$
\$
\$
\$
\$
\$
\$
\$

\$ _____ Total AOC Budget Expenditures Year to Date (As of October 1 to present)

I hereby certify this report to be true and correct to the best of my knowledge, that we have not used Mississippi Public Drug Court Funds on any disallowed expenditure, and we have maintained supporting documentation of same.

(Authorized Signature)

(Please Type of Print Name)

Title: _____ Date: _____

The Administrative Office of Courts must receive this form with an original signature by the 10th day of every month.
Send to: Joey Craft, Administrative Office of Courts, P.O. Box 117, Jackson, MS 39205-0117
Phone: (601)576-4631 Fax: (601)576-4639 E-Mail: Jcraft@mssc.state.ms.us

SUPREME COURT OF MISSISSIPPI
Administrative Office of Courts

MONTHLY PROGRAMMATIC REPORT

Report for the Month of _____ Year _____

Name of Drug Court _____
(Mississippi Judicial District, County, or Municipality)

Name and Title of Person Providing Information _____

Phone _____ Fax _____ E-mail _____

Please complete the following and return signed originals to the Administrative Office of Courts office by the 10th day of each month. Please see the "Instructions for Completing" on the reverse page for definitions of terms and directions for completion.

_____ Number of drug court clients in your program on the last day of the month.

_____ Number of graduates for the month.

_____ Number of graduates who have been convicted of a new offense during the month.

_____ Number of clients that withdrew from the program during the month.

_____ Number of clients that were terminated from the program during the month.

_____ Number of clients that left the program for other reasons during the month.

_____ Number of drug free babies born to clients in drug court or recently graduated from drug court.

_____ Dollar amount collected from client fines.

_____ Dollar amount collected from drug court fees.

Coordinator's Signature _____ (Please type or print coordinator's name) _____ Date _____

Judge's Signature _____ (Please type or print judge's name) _____ Date _____

Send to: Joey Craft, Administrative Office of Courts, P.O. Box 117, Jackson, MS 39025-0117
Phone: (601) 576-4631 Fax: (601) 576-4639 E-mail: JCraft@msoc.state.ms.us

Instructions for Completing Drug Court Program Information

MONTHLY PROGRAMMATIC REPORT

For the purposes of this report, the reporting period begins on the first day of the month and ends on the last day of the month for which you are reporting. For example, the March report would count clients from March 1 through March 31.

Number of drug court clients in your program on the last day of the month: Please count only those clients that have been officially screened and accepted and have not graduated or left the program.

Graduates: Please report the number of graduates you had from the first day of the reporting month until the last day. For example, for the March monthly report, please count how many people graduated from March 1 through March 31.

Re-offenders: Please report clients who have graduated from the program and were **convicted of a new offense** between the first and last day of the reporting period.

Withdrew: Please report any clients who voluntarily left the drug court program during the reporting month.

Terminated: Please report any clients who were removed from the program by the court or any of the agencies partaking in the drug court process during the reporting month.

Left for Other Reasons: Please report any clients who left the program for other reasons during the reporting month. Please list the number of clients and the reason for leaving. For example, death or transfer to another court.

Drug Free Babies: Please report the number of drug free babies born to any client enrolled in drug court or any recent graduate of drug court for the reporting month.

Fines and Fees: Please report the dollar amount of fines and fees collected from drug court clients during the reporting month.

Monthly Programmatic Reports must be received at the Administrative Office of Courts by the 10th of each month. Send report to: Joey Craft, Administrative Office of Courts, P.O. Box 117, Jackson, MS 39205
Phone: (601) 576-4631 Fax: (601) 576-4639 E-mail: JCraft@msso.state.ms.us

Drug Court Appropriation Scale

Adult Drug Court

The State Drug Court Advisory Committee has implemented a new funding formula for all levels of drug court programs. Please read carefully to determine the amount of funding your drug court program will qualify. The changes will take effect during FY-2010 budget year.

Adult felony-level drug courts will now be funded based upon an average enrollment rate. The average will be determined by using the drug court program's highest 3 months of enrollment from the previous state fiscal year (July 1 - June 30).

NOTE: Any existing drug court program that will be adversely effected by the new funding formula shall be given until FY-2011 to increase its average enrollment. This will allow the drug court the opportunity to ensure its current level of funding is maintained.

Adult Felony Level Drug Courts

Using the following scale to determine the amount of money your Certified Adult Drug Court Program can qualify for.

Average Number of Clients	Amount granted per year to program
New or 1 st year drug court	\$125,000 per year
100 > clients	\$125,000 per year
100 - 124 clients	\$175,000 per year
125 - 149 clients	\$225,000 per year
150 - 174 clients	\$275,000 per year
175 - 199 clients	\$325,000 per year
200 < clients	\$375,000 per year

Adult Drug Courts will be required to collect, at a minimum, 50% of participant fees which will be charged against the A.O.C. approved per client budget.

Ex. 100 clients = \$175,000 approved A.O.C. budget

100 clients = \$ 30,000 50% minimum client fee collection amount *

100 clients = \$145,000 guaranteed from State Drug Court Funds

** based on a \$50 per month fee charged by drug court programs to the participants*

Adult Misdemeanor Level Drug Court Programs

The purpose is to allow misdemeanor drug courts to be funded if the misdemeanor courts provide drug court services to adult individuals who are not in the jurisdiction of the circuit or county courts. Certified Adult Drug Court Programs operating within the jurisdiction of Municipal and Justice courts shall use the following scale to determine its funding level. Levels

will be determined based on average enrollment and not projected enrollment.

Average Number of Clients	Amount granted per year to program
New or 1 st year drug court	\$50,000 per year
100 > clients	\$75,000 per year
100 < clients	\$100,000 per year

Juvenile Drug Court

Juvenile drug court programs will now be funded based on an average enrollment rate. The average will be determined by using the drug court program's highest 3 months of enrollment from the previous state fiscal year (July 1 - June 30).

NOTE: Any existing juvenile drug court program that will be adversely effected by the new funding formula shall be given until FY-2011 to increase its average enrollment. This will allow the drug court the opportunity to ensure its current level of funding is maintained.

County Youth Court

Certified Juvenile Drug Court Programs operating within the jurisdiction of the County Youth Court shall qualify for \$6,500.00 per client/per year with a maximum enrollment of 40 clients. New, first year drug courts, and juvenile drug court programs with an average of less than 20 clients will be offered a baseline amount of \$125,000.00.

Referee Youth Court

The "Referee Drug Court Pilot Project" has been approved for continuation through Fiscal Year 2011. For certified juvenile drug courts operating within the jurisdiction of the Chancery Court district and presided over by a Youth Court Referee, the following table will be used in determining the annual amount for which the program will qualify.

Number of Referrals from previous calendar year	Amount	Minimum and Maximum funding determined by the following enrollment
120-180 Referrals.....	up to \$ 78,000.....	Min 10 kids - Max 12
181-240 Referrals.....	up to \$130,000.....	Min 13 kids - Max 20
241-300 Referrals.....	up to \$162,500.....	Min 21 kids - Max 25
300 + Referrals.....	up to \$195,000.....	Min 26 kids - Max 30

Neighboring counties operating within the same Chancery Court District may combine referrals to create a co-op referee drug court but must have a comprehensive plan to ensure that youth in each of the counties are served with an appropriate level of service.

- Inter-county agreements must be formed.
- Must have a comprehensive plan for implementation and operation.
- Must have a letter of support from the Senior Chancellor of that district.

Neighboring counties operating in different Chancery Court Districts may combine referrals to create a co-op referee drug court but must have a comprehensive plan to ensure that youth in each of the counties are served with an appropriate level of service.

- Inter-county agreements must be formed.
- Must have a comprehensive plan for implementation and operation
- Must have a letter of support from the Senior Chancellor in each district.

No single Chancery Court District, or any co-op referee drug courts may receive more than the maximum amount of \$195,000 per fiscal year.

Drug Court Personnel Salary Scale

Administrative / Personnel

The primary functions for which costs are considered administrative include: overall management and coordination; preparation of plans, budgets, reports, and schedules; and case management and supervision of clients. This listing may include the drug court coordinator, case manager, and supervision officers. The Mississippi Department of Corrections has committed to assigning one (1) field officer to each certified adult, felony level drug court program. In the event that a drug court requires the service of more than one (1) field officer, the salary and benefits shall be paid using the drug court's approved budget from the Administrative Office of Courts and shall be paid directly to the Mississippi Department of Corrections. The annual salary scale is based on a Full Time Employee (FTE) of the drug court program. All annual salaries shall be limited to the current pay scales of similar or equivalent positions as defined by the Mississippi State Personnel Board.

Job Title	Salary Range
Drug Court Coordinator	Not to exceed \$ 48,500.00
Drug Court Field Officer I	\$ 27,082.18 - \$ 47,393.82
Drug Court Field Officer II	\$ 31,377.11 - \$ 54,909.94
Drug Court Field Officer III	\$ 34,669.90 - \$ 60,672.33
Drug Court Case Manager	\$ 27,082.18 - \$ 47,393.82

Treatment

If treatment is provided in-house, the annual salary shall be limited to the current pay scales of similar or equivalent positions as defined by the Mississippi State Personnel Board. The salary scale is based on a Full Time Employee (FTE) of the drug court program.

Job Title	Salary Range
Drug Court Treatment Counselor I	\$ 25,986.12 - \$ 45,475.71
Drug Court Treatment Counselor II	\$ 28,651.45 - \$ 49,982.54
Drug Court Treatment Counselor III	\$ 31,457.44- \$ 55,050.52

Job Characteristics Experience/Educational Requirements

The following apply only to those persons employed by the drug court program. Job characteristics, experience and educational requirements are subject to change.

DRUG COURT COORDINATOR

Job Characteristics:

This is professional work involving the overall management of the drug court program. This person shall be responsible for management and coordination of drug court functions and operations. This person shall be responsible for the drug court's compliance with all legislation and rules as they apply to the drug court program. They will provide supervision to other drug court staff and coordination between drug court team members.

Education:

A Bachelor's degree from an accredited four-year college or university; or graduation from a standard four-year high school or equivalent (GED) and four (4) years of relevant experience.

AND

Twelve (12) hours of continuing education and training in substance abuse and criminal justice issues.

DRUG COURT FIELD OFFICER I

Job Characteristics:

This is entry-level professional work involving intensive supervision and casework services to clients enrolled in the drug court programs. Other functions include enforcing probation agreements set forth by the drug court judge and compiling data for monthly reporting. Additional duties and job functions may be identified and included by the drug court judge. Employee will serve at the will and pleasure of the drug court judge.

Education:

A Bachelor's degree from an accredited four-year college or university in criminal justice, sociology, social work, psychology or a related field;

AND

Experience:

One (1) year of experience in related work;

OR

Education:

Graduation from a standard four-year high school or equivalent (GED).

AND

Experience:

Five (5) years of experience in related work.

Note: In all cases, the applicant must have successfully completed the Mississippi Law Enforcement Officers Training Program as mandated by Mississippi Code Annotated, 1972, Section 47-7-9 (b) as amended.

DRUG COURT FIELD OFFICER II

Job Characteristics:

This is professional work involving intensive supervision and casework services to clients enrolled in the drug court programs. Other functions include enforcing probation agreements set forth by the drug court judge and compiling data for monthly reporting. Additional duties and job functions may be identified and included by the drug court judge. Employee will serve at the will and pleasure of the drug court judge.

Education:

A Master's degree from an accredited four-year college or university in criminal justice, sociology, social work, psychology or a related field;

AND

Experience

Two (2) years of experience in related work

OR

Education:

A Bachelor's degree from an accredited four-year college or university in criminal justice, sociology, social work, psychology or a related field;

AND

Experience:

Three (3) years of experience in related work;

OR

Education:

Graduation from a standard four-year high school or equivalent (GED).

AND

Experience:

Seven (7) years of experience in related work.

Note: In all cases, the applicant must have successfully completed the Mississippi Law Enforcement Officers Training Program as mandated by Mississippi Code Annotated, 1972, Section 47-7-9 (b) as amended.

DRUG COURT FIELD OFFICER III

Job Characteristics:

This is professional work involving intensive supervision and casework services to clients enrolled in the drug court programs. Other functions include enforcing probation agreements set forth by the drug court judge and compiling data for monthly reporting. Additional duties and job functions may be identified and included by the drug court judge. Employee will serve at the will and pleasure of the drug court judge.

Education:

A Master's degree from an accredited four-year college or university in criminal justice, sociology, social work, psychology or a related field;

AND

Experience

Four (4) years of experience in related work

OR

Education:

A Bachelor's degree from an accredited four-year college or university in criminal justice, sociology, social work, psychology or a related field;

AND

Experience:

Five (5) years of experience in related work;

OR

Education:

Graduation from a standard four-year high school or equivalent (GED).

AND

Experience:

Nine (9) years of experience in related work.

Note: In all cases, the applicant must have successfully completed the Mississippi Law Enforcement Officers Training Program as mandated by Mississippi Code Annotated, 1972, Section 47-7-9 (b) as amended.

DRUG COURT CASE MANAGER

Job Characteristics:

This is a professional position in which the case manager will provide casework services to clients enrolled in the drug court program. The employee will work closely with the drug court coordinator, drug court field officer, and the drug court judge. Essential function will include, but are not limited to: maintaining contacts with drug court clients for various interviews and programs; prepares and processes forms and reports, and compiling data for monthly reporting. Additional duties and job functions may be identified and included by the drug court judge. Employee shall serve at the will and pleasure of the drug court judge.

Education:

A Bachelor's degree from an accredited four-year college or university; or graduation from a standard four-year high school or equivalent (GED) and four (4) years of relevant experience.

AND

Twelve (12) hours of continuing education and training in substance abuse and criminal justice issues.

DRUG COURT TREATMENT COUNSELOR I

Job Characteristics:

This is professional work within the drug court model working with clients actively enrolled in the drug court program. Work involves performing activities involved in the preliminary study of cases, conducting individual, group or family counseling to clients enrolled in drug court, prepares and maintains files, documentation, legal documents and various reports, and have frequent conferences with drug court team members to discuss problems arising within their work and for instructions as to subsequent steps to be taken with the drug court client. Additional duties and job functions may be identified and included by the drug court judge. Employee shall serve at the will and pleasure of the drug court judge.

Education:

A Master's degree from an accredited four-year college or university in social work, counseling, or one of the behavioral sciences.

DRUG COURT TREATMENT COUNSELOR II

Job Characteristics:

This is professional work within the drug court model working with clients actively enrolled in the drug court program. Work involves performing activities involved in the preliminary study of cases, conducting individual, group or family counseling to clients enrolled in drug court, prepares and maintains files, documentation, legal documents and various reports, and have frequent conferences with drug court team members to discuss problems arising within their work and for instructions as to subsequent steps to be taken with the drug court client. Additional duties and job functions may be identified and included by the drug court judge. Employee shall serve at the will and pleasure of the drug court judge.

Education:

A Master's degree from an accredited four-year college or university in social work, counseling, or one of the behavioral sciences.

AND

Experience:

One (1) year of experience directly related to the above described characteristics.

DRUG COURT TREATMENT COUNSELOR III

Job Characteristics:

This is professional work within the drug court model working with clients actively enrolled in the drug court program. Work involves performing activities involved in the preliminary study of cases, conducting individual, group or family counseling to clients enrolled in drug court, prepares and maintains files, documentation, legal documents and various reports, and have frequent conferences with drug court team members to discuss problems arising within their work and for instructions as to subsequent steps to be taken with the drug court client. Additional duties and job functions may be identified and included by the drug court judge. Employee shall serve at the will and pleasure of the drug court judge.

Education:

A Master's degree from an accredited four-year college or university in social work, counseling, or one of the behavioral sciences.

AND

Experience:

Two (2) years of experience directly related to the above described characteristics.

IN THE CIRCUIT COURT OF LAFAYETTE COUNTY, MISSISSIPPI**IN RE: THE THIRD CIRCUIT DRUG COURT****MISC NO. L10-371MISC**

**LAFAYETTE COUNTY
FILED**
JUL 18 2010
**Mary [Signature]
CIRCUIT CLERK**
BY _____ D.C.

**LAFAYETTE COUNTY, MISSISSIPPI'S MOTION FOR
RECONSIDERATION OR, IN THE ALTERNATIVE,
FOR CLARIFICATION OF ORDER REGARDING
ADMINISTRATIVE OPERATION OF
THIRD CIRCUIT DRUG COURT**

COMES NOW, Lafayette County Mississippi, by and through the Board of Supervisors of Lafayette County, and files its Motion for Reconsideration or, in the alternative, for Clarification of the Order issued by the Third Circuit Court dated June 17, 2010, regarding certain administrative matters involving the operation of the Third Circuit Drug Court, and would state as follows:

1.

Having received and duly considered the June 17 Administrative Order regarding Lafayette County's functions and duties as the so-called "lead county" with regard to the Third Circuit's Drug Court operations, Lafayette County would respectfully express its full support for both the purpose and operation of the Drug Court. As a matter of record (and as the Court acknowledged) in the June 17 Order, Lafayette County's voluntary support of the Third Circuit Drug Court – by agreeing to serve as the "lead county," managing the Court's budget and accounts, and providing and furnishing newly renovated courthouse space complete with special plumbing fixtures and security systems – was necessary and instrumental in the Administrative Office of Court's approval and certification of the Third Circuit Drug Court program. It bears emphasis that these actions involving the provision of space, management support and the outlay of Lafayette County taxpayer funds were not undertaken by Lafayette County as a matter of

EXHIBIT

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compulsion or obligation but rather voluntarily because of its support of the Drug Court's mission.

2.

The unfortunate circumstances surrounding the issuance of the June 17 Order ultimately regard Lafayette County's fairly mundane but longstanding request for modest rent monies from the Third Circuit Drug Court for its use of courthouse facilities which benefit the seven counties comprising the Third Circuit District. The County considered the rent demand, first made in August 2009, to be both fair and reasonable in light of the maintenance required of County employees because of the frequent and increasing use of the courthouse facilities by approximately 200 patrons and given the Court's initial representations that Lafayette County taxpayers would not be financially burdened in any respect should the Board agree to locate the Drug Court facility at the courthouse. The rent issue first arose when the Board was advised by the Administrative Office staff that (1) other drug courts pay a fair rental for county-provided facilities and (2) the Fiscal Policy makes specific allowance for rental expenses. So neither did the County consider its request unusual. It is regrettable that a routine administrative matter, arising out of Lafayette County's largely undefined role as "lead county" and the reality that the drug testing, monitoring and counseling functions of the Drug Court are located at the Lafayette County Courthouse, were addressed via the June 17 "cease and desist" Order, rather than through a process of informal communication and consultation. Under the Court's Order, however, Lafayette County now appears to be compelled to do that which it voluntarily assumed at the inception of the Drug Court program.

3.

Although not addressed in the Court's Order, Lafayette County has since learned from the Drug Court Administrator that the Court will begin paying the requested rent starting with the upcoming budget year. The County expresses its appreciation to the Court for making provision for rental expenses in the upcoming budget. As to the Court's offer to reimburse County taxpayers for the \$7,000 cost of retrofitting the courthouse space for the Drug Court, the County was previously unaware of the offer (until the June 17 Order). The County likewise expresses its appreciation for the reimbursement offer and requests that payment be made as soon as convenient to the Court.

4.

As the Court acknowledged in the June 17 Order, the concept of a "drug court" is a newly emerging one in Mississippi. Signed into law during the 2003 regular session of the Mississippi Legislature, the "Alyce Griffin Clarke Drug Court Act" authorized the state chancery, circuit, county, youth, municipal and justice courts to engage in "alternative" dispositions of drug court offenses through the use of "immediate and highly structured intervention processes" for substance abuse treatment of eligible adults and juveniles, provided that the particular court first seek and obtain a "certification" of the proposed program from the Administrative Office of Courts. Through a series of statutory provisions, the Act sets out the "certification criteria" which the local court must demonstrate to the satisfaction of the Administrative Office before the program may be "certified." The Act also provides for a general administrative structure for local drug courts and authorizes the Administrative Office to promulgate rules and regulations to implement the Act's provisions. Significantly, neither the Act nor the rules adopted by the Administrative Office make any provision for a "lead county" or a "lead municipality." Neither

does the Act nor the "Mississippi Drug Court Rules" promulgated by the Administrative Office attempt to define the role and related responsibilities of the so-called "lead county" or "lead municipality" with respect to Drug Court operations. Instead, Miss. Code Ann. §9-23-11 suggests that the Drug Court is empowered to employ full- or part-time employees "as it deems necessary" who serve at the "will and pleasure" of the judge or the judge's designee. The corresponding "Mississippi Drug Court Rules" requires the Drug Court to develop and implement a written personnel policy and procedure manual containing employment procedures and specifying applicable wages and benefits. (See Section 26 – "Personnel Management").

5.

In addition to the requirement that the Drug Court maintain an internal personnel management system, the Act and the rules promulgated by the Administrative Office likewise suggest that the Drug Court is to maintain an independent fiscal management system, including the management of its own accounts. For example, Section 9-23-19 requires that "all monies received from any source by the drug court shall be accumulated in a fund to be used only for drug court purposes. Any funds remaining in this fund at the end of a fiscal year shall not lapse into any general fund, but shall be retained in the drug court fund for the funding of further activities by the drug court." To the same effect is the "Mississippi Drug Court Fiscal Policy" issued by the Administrative Office which contains directives to local drug courts for the proper fiscal, administrative and personnel management of Drug Court operations. Thus, Drug Courts are required to maintain separate documentation of its operational and fiscal activities to be maintained at the "court's physical location." Each drug court is required to submit a monthly fiscal report detailing expenditures incurred for the month to the Administrative Office which, in turn, is to issue a "reimbursement check to the individual drug court program for expenditures

reported during a month." Further, the salaries and fringe benefits for Drug Court staff (which serves the entire district) are a function of state law, not local. For example, the salaries are "limited to the current pay scales of similar positions defined by the Mississippi State Personnel Board." Fringe benefits are limited to the "same benefits as are received by full-time County employees in the lead county." Finally, the Mississippi Drug Court Rules (Section 25) requires each drug court to develop and implement "an accounting system with the capability to ensure financial transactions are thoroughly documented and handled in a uniform and consistent manner." These provisions clearly contemplate that each drug court will internally manage and administer its own staff as well as financial accounts necessary for the receipt of monies and the payment of operational and personnel expenses.

6.

The foregoing is mentioned to make the point that the concept of a "lead county" is neither mentioned nor defined in the Act or the Rules promulgated by the Administrative Office. Yet, as the Court's June 17 Order acknowledges, Lafayette County voluntarily assumed to function as the "lead county" for the Third Circuit Drug Court program and thereby assumed rather significant fiscal and administrative responsibilities requested by the Drug Court. For example, the Drug Court requested and Lafayette County agreed that Lafayette County would "front" initial Drug Court expenses and would pay personnel and operational expenses on behalf of the Drug Court with the right to "reimbursement" from the Administrative Office in accordance with a pre-approved Drug Court budget. Lafayette County also assumed the management of the Drug Court's financial accounts. These activities were undertaken on request by the Drug Court even though the Act and the Administrative Rules pertaining to Drug Court operations make no provision for an entity other than the Drug Court to perform these functions.

7.

Prior to the June 17 Order, Lafayette County had no communication or instruction from the Court or its administrator as far as how the County would fulfill its "lead county" function. As the Order recounts, the Board engaged in a practice of "approving" (but never denying) Drug Court expenditure requests and personnel decisions. This practice was considered a matter of routine by the County because the matters typically required the Board's authorization to spend monies from the funds administered by Lafayette County per its agreement with the Drug Court. The Court well notes in its Order that, although it was "concerned" over the Board's practice of formally approving Drug Court expenditure and staffing decisions, it never expressed such concerns to the Board – until the June 17 "cease and desist Order." Again, the Board attempted to fulfill its role as the "lead county" without any guidance from the Act, the Rules promulgated by the Administrative Office or standing Court Order. However, although admittedly vague, the statutes and Administrative Rules seem to suggest that the functions of a "lead county" are unwarranted and that the administrative functions heretofore borne by Lafayette County may be assumed by Drug Court staff. Counsel for the Board has consulted with the Attorney General, State Auditor and the Administrative Office of Courts, before and after the June 17 Order, seeking guidance on the County's proper role regarding and relationship with the Drug Court. He has been advised by the Attorney General's office to seek an official opinion on several of the matters addressed in the present Motion.

8.

Lafayette County agrees with and accepts the Court's desire to maintain the independence and integrity of essential drug court operations and, in that view, believes that less entanglement between County government and state court functions would better serve the Court's desire to

maintain its independence and preserve its control over routine administrative functions. Indeed, Lafayette County believes that the Act and related administrative rules accomplish exactly that.

9.

Regarding the injunctive aspects of the Court's June 17 Order, Lafayette County will continue to fully support Drug Court operations and again expresses its appreciation for the Court's willingness to pay rent, at the rate of \$2,000 per month, commencing with the upcoming fiscal year. With that administrative issue being resolved, Lafayette County expresses its willingness to continue serving as the "lead county," performing the administrative and management functions as described above and the Court's June 17 Order, but Lafayette County suggests that in view of the statutory and administrative provisions outlined above, that an opinion from the Office of the Attorney General be obtained to clarify:

1. Whether a county or municipality may or is obligated to assist local drug courts in an administrative and management capacity as opposed to drug court staff assuming those functions;
2. Whether a county or municipality may or is obligated to expend local taxpayer monies to defray operational and personnel expenses which are subject to reimbursement by the Administrative Office of Courts in accordance with an approved local drug court budget;
3. Whether and to what extent a lead county or municipality may or is obligated to exercise discretion in approving drug court operational and personnel expenses and staffing decisions; and
4. How long is the lead county obligated to remain as the lead county? Does the lead county have the right to withdraw as the lead county?

Because state law requires that a given governmental authority "approve" the expenditure of maintained funds, Lafayette County also suggests that the Court consider issuing monthly orders directing that submitted costs be paid out of the funds maintained by Lafayette County. Lafayette County would, in turn, simply include the administrative Orders issued by the Drug Court in its claims docket for routine approval by the Board during a regular general meeting.

10.

Based upon the foregoing, Lafayette County respectfully request that this Court reconsider its June 17 Order or, in the alternative, enter an Order clarifying the injunctive aspects of the Order as delineated above. Lafayette County would also respectfully request any other relief which the Court may find warranted in the premises.

THIS, the 13th day of July, 2010.

Respectfully submitted,

LAFAYETTE COUNTY, MISSISSIPPI

BY:

David D. O'Donnell

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with
permise

DAVID D. O'DONNELL, MSB# [REDACTED]

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IN THE CIRCUIT COURT OF LAFAYETTE COUNTY, MISSISSIPPI

**IN RE: LAFAYETTE COUNTY BOARD
OF SUPERVISORS**

MISC NO. L10-371 MISC

FINAL ORDER

The Court, on its own motion, is issuing this Final Order to supplement the Order filed by the Court on June 17, 2010 in the above matter.

In the aforesaid previous Order, the Court invited the Lafayette County Board of Supervisors (hereinafter "Board")¹ to file a responsive motion if they wished to "contest any portion of...[the] Order." The purposes and parameters of any proposed response were made clear by the Court. It was for the purpose of seeking "clarification, modification or correction." The responsive motion was to "specifically identify the relief requested by the Board so that the Court can then determine whether any requested modifications to this Order may be considered by the Court with or without the necessity of a hearing." The purpose of the invitation for a response was to avoid any misstatement of fact or misapplication of law in the Court's Order, not to offer to have the Board's attorney restate the dispute and thereby deliberately or recklessly misrepresent the facts² as well as the nature of the problem. To suggest that the County would

¹Once again, action taken by the Supervisors is intended to mean a majority of the Board.

²For example, in its Response, the Board suggests that the Court is taking action because of the "fairly mundane but longstanding request for modest rent," and that only after the issuance of the Court's Order did the County learn "that the Court will begin paying the requested rent starting with the upcoming budget year." In fact, the Board was sent a letter on April 15, 2010 advising that Drug Court would pay rent at the beginning of its next fiscal year. It was on May 3, 2010, more than two weeks after being apprised that the Drug Court would pay the demanded



FILE THIS THE 21 DAY OF Sept
 MINUTE BOOK 10x PAGE 264-269
 MARY ALICE BUSBY, CIRCUIT CLERK
 CV RLC D.C.

now agree to serve as lead county because the Court had agreed to pay rent ignores the history and chronology of events. The supervisors voted to discontinue service as lead county after the Court agreed to pay rent. The Response does not meaningfully contest the Court's application of the law, with a couple of minor, and largely irrelevant, exceptions.

The Board now professes to be ignorant in the business of handling Court funds, and intends to seek the advice of the Attorney General's Office of the State of Mississippi. As to the matters of law decided in the Court Order, the avenue of redress is an appeal to the Mississippi Supreme Court. The Board should be aware that a circuit court order supercedes any opinion of law of the Attorney General. In fact, if advised of the Court Order, the Attorney General's Office will almost certainly not issue an opinion on a matter of law covered in the Order. Additionally, some of these issues upon which the Board claims to need assistance from the Office of the Attorney General have been addressed by previous opinions of the Attorney General. For example, on May 9, 2008, the Attorney General issued an opinion ratifying the authority of the DeSoto County Board of Supervisors to pay rent from the county's budget on behalf of drug court. Op. Att'y Gen. 2008-00180 (Miss. May 9, 2008). (That is, rent paid by the county for drug court, not to the county by drug court.) This particular opinion explains that a county's expenditures on behalf of a drug court are made pursuant to a budget approved by the Administrative Office of Courts, implicitly leaving no budget discretion to the lead county.


The Board treats the "lead county" concept as if the idea as well as the terminology has been invented by the Court. In fact, the use of the term "lead county" comes from the

rent, that the Board voted to discontinue serving as lead county. It was likely there was other language in that very letter which caused the Board to act on May 3, 2010. (See Exhibit 1, copy of letter.)

Mississippi Drug Court Fiscal Policy as promulgated by the State Drug Court Advisory Committee.

Finally, the Response attempts to conduct business with the Court through the Order and Response.³ It cannot be reasonably inferred that this is the intention of the Order. Due to the complete failure of the Response to raise valid questions of fact or law, the Court's Order of June 17, 2010, as amended and supplemented by this Order, shall be deemed to be final as written and as amended herein. As a final judgment, appeal may be taken as provided by law as of the date of this Order. A copy of this Order shall be provided to the board attorney by the Clerk of the Court.

SO ORDERED, this the 21st day of September, 2010.


ANDREW K. HOWORTH
CIRCUIT COURT JUDGE

³The Response purports to accept an offer for payment of \$7,000.00 from Drug Court to the County. No such offer is made in the Order.