

# **Improving the Criminal Processing of Misdemeanants**

The Improved  
Lower Court Case Handling Program:  
New Castle County, Delaware

National Evaluation:  
Final Report

Report of The METREK Division of The MITRE Corporation

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Final Report

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## ABSTRACT

This document presents the national evaluation of the Improved Lower Court Case Handling Program in New Castle County, Delaware. The program was an LEAA effort to provide resources to four sites for the operation of eight components designed to improve the case processing of misdemeanants. The process of program development is described; the development, operations, use, and effects of each component are assessed; and a summary of program results is provided.

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## EXECUTIVE SUMMARY

Wilmington (New Castle County), Delaware, was one of four sites selected to demonstrate the LEAA's Improved Lower Court Case Handling (ILCCH) program. The program was designed to improve the processing of misdemeanor offenders through the implementation and operation of eight program components. Together these components offered alternative, less drastic methods for handling misdemeanants (police citation, court summons, pretrial release, and select offender probation); information-gathering mechanisms to improve decision-making regarding misdemeanor cases (case screening, PROMIS, short form presentence investigation reports); and a coordinating position, the Mass Case Coordinator (MCC), designed to foster cooperation amongst the components and across criminal justice agencies so that case flow might be better managed.

The Wilmington ILCCH program suffered from inadequacies in analysis and planning, reflecting a lack of agency interest, commitment, and involvement in the program from the beginning. For these reasons, the processes of "selling" component concepts to agencies, developing and implementing components, and managing them were all assumed by the MCC with almost no outside agency support. The results were slow implementation of components, radical revisions in some component plans, faulty administration and management of some components, little institutionalization, and almost no development of inter-agency or inter-component cooperation. Wilmington's experience with each component is detailed below:

- Police Citation. By working with the Delaware Police Chiefs Regional Council, the MCC developed and distributed a uniform citation ticket for use by all police agencies in the state. Results indicated that, except for the city of Newark and New Castle County, citation use was extremely sparse. A major problem limiting the use and savings realized by citations was the state requirement that arrestees be booked and fingerprinted. This meant that individuals issued citations must still be transported to the police station before release.
- Court Summons. Because arrest warrants, rather than summons, were used for citizen complaints by the Magistrates' Courts, the MCC worked with these courts and police to develop acceptable procedures for the issuance of summons and to convince them of the value of summons. Results indicated that summons usage was not very frequent and they were issued in only about 20% of the cases involving citizen-initiated misdemeanor complaints. Potential savings were further reduced by the policy of having summons delivered in person, rather than by mail. Magistrates indicated reluctance to use summons heavily, because the police prefer physical arrest as a method of developing leads and criminal profiles.

- Pretrial Release and Short Form Presentence Investigation (PSI) Report. Analyses by the MCC of the pretrial release and presentence investigation services provided by the Department of Adult Corrections (DAC) indicated that DAC had no need for the components and was not interested. These analyses indicated however, that there was a need for obtaining rapid criminal history information from the state to assist the pretrial and PSI functions. For this reason, ILCCH funds were used to rent two computer terminals for the courts, which would allow rapid access to state data. Evidence indicated that both presentence investigators and judges are making substantial use of the terminals.
- Case Screening. This component provided personnel to implement screening activities in the Magistrates' Courts and the Court of Common Pleas (CCP), and to augment existing activities in the Wilmington Municipal Court. Implementation and operation of screening in the Magistrate's Courts proved troublesome; misconceptions developed about the nature and purposes of screening activities and there was resentment of the extra work created by the component. Only 24% of all cases were screened for these courts; despite some increase in the percentage of cases nolle'd, the quality of case dispositions did not significantly improve. There was some evidence that screening activities conflicted with the "social arbiter-dispute settling" role of these courts which encourages all parties to have "their day" in court. Implementation and operation of case screening in the CCP was much more successful. Data indicated that 66% of all cases were screened, that a higher percentage of cases were nolle'd than in the past, and that the quality of case dispositions improved. However, case screening activities in general, with the exception of those of the CCP, had little positive effect and, in some cases, resulted in administrative confusion and resentment. Despite the apparently successful screening work in the CCP, the low priority accorded screening in the lower courts prevented the refunding of any screening activities.
- PROMIS. Because the State Attorney General's Office provided prosecutorial services for almost all offenses committed in the state, component plans specified a study of the entire case processing system of the office. A management study of the criminal division of the office revealed problems with case documentation, filing, record-keeping and other procedures. Based on a series of proposals from this study, the office instituted a reorganization of the division and the adoption of new forms based on the manual PROMIS system. At the end of the grant period, PROMIS-related activities designed to upgrade and streamline felony case processing continued.

- Select Offender Probation. Two probation officers were funded to supervise an exclusively misdemeanor probation caseload as an adjunct to the Department of Corrections (DAC). Neither the DAC nor the MCC defined selection criteria or operating procedures for the component. Evidence of poor staff selection and inadequate supervision of that staff suggested that the component was of little value; the DAC did not consider refunding the component.

In terms of general system improvement, it appears PROMIS was the most significant ILCCH component, bringing about a major reorganization in the Attorney General's Office. Both citation and summons provide new arrest alternatives in New Castle County, although neither is widely employed. Given the lack of local need for many of the ILCCH components and the lack of agency involvement (or a mechanism for agency involvement), the MCC was left to develop components and attempt to supervise, monitor, and revise their operations with no or little agency commitment or direction. The difficulties which plagued the program from the start, evident during site selection, should have argued against Wilmington's selection as a demonstration site for the program.

## 1.0 INTRODUCTION

### 1.1 The Improved Lower Court Case Handling Program

The Improved Lower Court Case Handling Program (ILCCH) evolved from the efforts of LEAA's Office of Technology Transfer (OTT), to develop a demonstration program addressing the lower courts. Seven components of the program were selected from a previously compiled manual describing innovative and tested projects in the misdemeanor area. Taken together, these components affect the entire misdemeanor case handling process, from time of arrest to final disposition. The seven components are:

- police citation
- court summons
- PROMIS
- prosecutor case screening
- pretrial release
- short form presentence reports
- select offender probation

To insure the implementation and operation of a lower courts program, rather than a series of discrete practices and procedures, an eighth program component - the Mass Case Coordinator (MCC) - was developed.

Four of the program components, while directed towards different stages in the lower court process, would all serve to provide law enforcement and judicial personnel with alternative, less drastic mechanisms for handling misdemeanants. Both police citation and court summons were to provide alternatives to the somewhat costly, traditional processing of alleged misdemeanor offenders, while seeking to ensure their appearance in court. Similarly, pretrial release would offer an alternative to traditional detention and bail practices for misdemeanants arrested and awaiting trial by allowing for release on personal recognizance (ROR). Select offender probation would provide supervised probation to a select group of convicted misdemeanants in lieu of incarceration or unsupervised probation.

The other three program components were intended to encourage greater consistency and efficiency in the handling of misdemeanor cases. The prosecutor case screening component was to address inconsistencies and inefficiencies arising from unstructured charging policies and practices by developing and distributing a uniform charging manual and set of procedures. PROMIS (or some modification of the prototype Prosecutor Management Information System), was expected to promote systematic procedures for differentiating less serious from more serious cases, thus assisting decision-making regarding the allocation of prosecutorial resources. PROMIS was additionally intended to increase capabilities for generating consistent, reliable information across agencies and jurisdictions. Finally, the short form presentence report was designed to provide succinct and consistent offender information for use by judges in making sentencing decisions.

Coordination among these seven program components, as well as with established criminal justice agencies, was to be achieved through the eighth component, the MCC. Unlike the other components (which are specific case flow procedures in the lower courts), the MCC is a person, with responsibilities for developing and coordinating working relationships among the agencies and organizations involved in the overall program.

In early 1975, OTT turned its attention toward the selection of sites for the demonstration program. At this time, OTT decided to select a total of ten demonstration sites for two program concepts -- five sites for ILCCH and five sites for Team Policing. The ten LEAA regional offices were notified of the two programs, and asked to submit site suggestions for one or the other program. Regions III, IV, V, VI, IX, and X nominated sites for participation in the ILCCH program which was scheduled to receive \$1 million in Federal funds.

Assistance in making the site selection from among the seven nominees (Region V proposed two candidates) was obtained from the Institute for Law and Social Research (INSLAW). During March 1975, INSLAW visited each site for the purpose of assessing its potential for success as an ILCCH program demonstration site. Specifically, INSLAW evaluated each site's level of interest, system capabilities, and quality of interagency relations. The decision was made to solicit grant applications from Albuquerque, New Mexico; Columbia, South Carolina; Kalamazoo, Michigan; Las Vegas, Nevada; and Wilmington, Delaware. In the end Albuquerque was not funded, because their grant application did not conform to programmatic guidelines. Thus, \$250,000 in Federal monies was available for each of the remaining four sites.

During the months of July and August, the four grants were awarded. In the ensuing months, Mass Case Coordinators were hired in each site, and efforts to tailor and adapt the component concepts to the specific needs and interests of the individual sites were begun.

#### 1.2 The National-Level Evaluation and The Purpose of This Document

In March 1976, the MITRE Corporation contracted to conduct the national-level evaluation of the ILCCH program. The evaluation was designed to address a broad-range of information and knowledge needs.<sup>1</sup> To meet these needs, quantitative and qualitative data would be collected at each site in order to examine the program from three distinct perspectives:

- a. site perspective;
- b. component perspective; and
- c. program-wide perspective.

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<sup>1</sup> Eleanor Chelimsky, Gerrie Kupersmith, and Joseph Sasfy, The Improved Lower-Court Case Handling Program: Concept and Plan for the National-Level Evaluation, MTR-7352.

The first perspective is site-specific, providing the opportunity to individually summarize and evaluate the program experience in each of the four sites. The component perspective provides an inter-site examination of each of the seven components, thereby allowing an assessment of four variations on seven themes.<sup>2</sup> The program-wide perspective represents an integration of site and component assessments for the purposes of addressing assumptions underlying the ILCCH program concept, as well as transferability considerations.

This document presents the site evaluation of the ILCCH program in Wilmington (New Castle County). Three other documents will detail the evaluations of the ILCCH program in Kalamazoo (Kalamazoo County), Las Vegas (Clark County), and Columbia (Richland County), respectively. The final document will summarize the results of the national-level evaluation in terms of the component and program-wide perspectives.

This site evaluation is based on a synthesis of qualitative and quantitative information. Site visits to each locale provided the opportunity to collect information directly from personnel associated with ILCCH and other criminal justice agencies. This information was supplemented by documentation supplied by the Mass Case Coordinators. The collection of quantitative data was the responsibility of the local evaluator in each site, although MITRE was to provide assistance and guidance regarding required data. In many cases the responsibility for specific data collection was delegated to ILCCH component personnel, criminal justice personnel, or the MCC. The final availability of data in each site was a function of the efforts of those individuals

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<sup>2</sup>Because of the nature of the Mass Case Coordinator (MCC) component, it is not assessed as an individual component. The position and role of the MCC is examined, however, as part of the site assessments.



responsible for the data, the cooperation of local system personnel, and the availability of the data itself.

This report begins with a description of the nature of misdemeanor processing in New Castle County prior to the ILCCH program. Next, the development of the program is described to the point of specific component implementation. Separate sections are devoted to a description of the design, implementation, and operation of each component and an assessment of the utilization and impact of the component. The final section analyzes the MCC role in terms of the program structure, and summarizes the experience and impact of the ILCCH program in New Castle County. An appendix provides a brief overview of criminal justice system resources in New Castle County.

## 2.0 PRE-ILCCH MISDEMEANANT PROCESSING

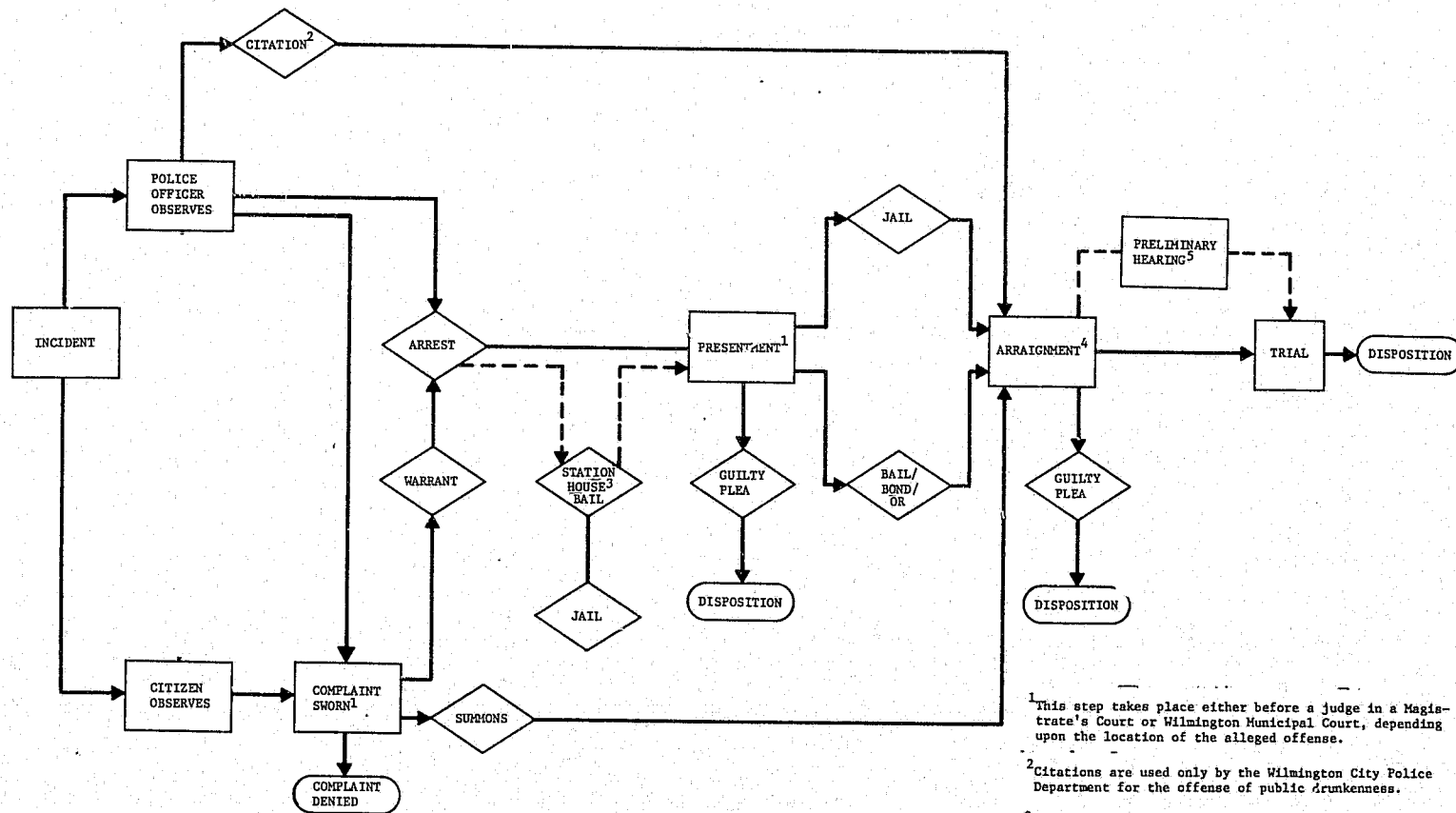
### 2.1 Arrest of Misdemeanants

The process by which an arrest is made and a case is processed in New Castle County, Delaware, is depicted in Figure 1. This figure represents the major processing steps for both the City of Wilmington and the remainder of New Castle County. The trial of misdemeanor cases in New Castle County can be held in the Wilmington Municipal Court, the County Magistrate's Courts, the Court of Common Pleas (CCP), or the Superior Court, depending upon the offense, and defendant's election of a trial by lawyer judge or by a jury, and territorial jurisdiction (see the Appendix, pp. 93-98). While the jurisdiction of cases is legally significant, the actual processing steps are essentially the same.

As shown in Figure 1, misdemeanants enter the system in New Castle County by a complaint and warrant procedure which necessarily involves physical arrest and arrest processing. Although there are a number of police agencies authorized to make arrests in New Castle County, the arrest procedures for these agencies are essentially the same. This is because the criminal court system is a state system operating under the same rules, statutes, and administration.

In the event a police officer observes an illegal act constituting a misdemeanor or a local ordinance violation, there are a number of options. Most frequently, the officer will take the accused into custody and accompany the person to the police station for booking and fingerprinting and then to a magistrate for a presentment (initial hearing). At the Magistrate's Court, the officer signs the formal complaint and warrant. At the same time, the magistrate advises the defendant of the charges and his rights and makes a decision about release pending trial. Magistrate's Courts operate on a 24-hour basis and defendants are rarely detained pending the presentment of charges.





--- OPTIONAL PROCESS

<sup>1</sup> This step takes place either before a judge in a Magistrate's Court or Wilmington Municipal Court, depending upon the location of the alleged offense.

<sup>2</sup> Citations are used only by the Wilmington City Police Department for the offense of public drunkenness.

<sup>3</sup> Station house bail pending presentment is an option only for cases heard by the Municipal Court.

<sup>4</sup> Arraignment may occur at the Magistrate's, Common Pleas, Municipal or Superior Court, depending upon which jurisdiction the offense occurs in, and whether a defendant elects a trial by jury or trial by a lawyer-judge at presentment.

<sup>5</sup> A defendant does not have the right to a preliminary hearing if the case is to be tried in a Magistrate's Court.

FIGURE 1  
PRE-ILCCH CASE PROCESSING-NEW CASTLE COUNTY, DELAWARE

Custody arrests in the City of Wilmington differ only in that presentment of misdemeanor charges is made before a Municipal Court Judge rather than a magistrate. Unlike magistrates, these judges are not available on a 24-hour, every-day basis. In the event an arrest is made in the city, and processing and presentment before a judge cannot be made the same day, the court employs bail commissioners who are empowered to sign warrants and set interim bail.

A police officer may elect to swear a complaint and obtain a warrant prior to making an arrest despite the observation of an illegal act. In this case, upon obtaining a warrant, the officer will make an arrest and defendant processing will proceed in the same manner described above. In a few instances, when a police officer swears a complaint based upon an offense which has been witnessed, no arrest is made. Instead, a summons may be issued by the court in lieu of an arrest warrant. This summons directs the defendant to appear for court arraignment at a future date. This procedure has been utilized in the past only by the Wilmington Municipal Court.

Finally, a police officer in Delaware witnessing a misdemeanor offense has the option under law to issue a police citation (summons) as an alternative to a formal arrest. Although permitted by law, citations have only been used by the City of Wilmington. Its use by this department has been limited to the processing of drunk and disorderly offenders who must be taken to a detoxification center rather than court.

In those instances where a police officer does not observe a misdemeanor offense, including those cases which are initiated by a citizen, a complaint setting forth the reasonable cause for the charge is sworn to before a magistrate (or Municipal Court Judge in the City of Wilmington). Citizens may initiate complaints on their own

initiative or upon referral from a police officer. Upon the filing of formal charges by a citizen complainant, the Magistrate's and Municipal Courts (as courts of first instance) have the option of issuing either a summons or a formal arrest warrant. The only hard requirement for a good complaint is that, in honoring the complainant's affidavit, the court officer (judge or bail commissioner) is satisfied that there is reasonable cause to believe the specified crime was committed by the alleged offender. Many alleged misdemeanors are referred by the initiating court to police agencies for investigation before a complaint is allowed by the court.

Upon the signing of a complaint, the court must bring the alleged offender before it to answer to the charge. The usual procedure in the Magistrate's Court system, which handles roughly two-thirds of the criminal complaints in New Castle County, is to issue a warrant for the arrest of the accused. If a warrant is issued, it is delivered to a police agency having jurisdiction over the accused. The latter is then formally arrested and brought before the court issuing the warrant. Wilmington Municipal Court also uses this procedure in most cases. However, the court frequently (about 30 percent of the time for citizen-initiated complaints) makes use of its criminal rule which permits the discretionary issuance of a summons instead of an arrest warrant. Execution of arrest warrants, prepared as a result of a citizen complaint, proceeds in the same manner as an "on scene" arrest by a police officer.

## 2.2 Prosecution

In contrast to most other states, the responsibility for the prosecution of criminal offenses throughout Delaware is conferred principally upon the State Attorney General's Office. There are statutory exceptions in a number of cities in the state. In these instances, City Solicitors, (i.e., District Attorneys) are maintained to prosecute

the violation of local ordinances. This is the case in the City of Wilmington. Misdemeanors which would otherwise be under the prosecutorial responsibility of the Attorney General (Court of Common Pleas or Magistrate's Courts), are handled by the Wilmington Municipal Court and prosecuted by the Wilmington City Solicitor's Office, if committed in the City of Wilmington.

#### 2.2.1 Magistrate's Court (Justice of the Peace)

The prevalent practice of dealing with misdemeanor offenses which may finally be determined at the magistrate's level is also depicted in Figure 1. Following a finding of probable cause and the issuance of a warrant and/or summons, the defendant appears before the magistrate. At this time, the magistrate informs the defendant of the charges and his rights and, if necessary, makes a pretrial release decision. Also at this first appearance, an arraignment date on the charge is established. (In reality, the initial appearance, arraignment, and trial of a large number of defendants charged with minor misdemeanors occur simultaneously.) At the defendant's arraignment, if the plea is such that a trial is necessary, the date and time of trial is given to defendant. Prior to formal arraignment, the defendant is advised of the right to elect a trial by a lawyer judge or a jury. If an election is made, the case is transferred to the Court of Common Pleas or Superior Court for arraignment, as appropriate.

The misdemeanor cases which are tried at the magistrate level are prosecuted by either the arresting police officer or by the complainant/victim. Typically, the only involvement of the Attorney General's Office at the magistrate level is for the prosecution of Driving Under the Influence of Alcohol (DUI) cases. Other than this, there has been little commitment by the Attorney General's Office to screen or deal with cases at this level.

As indicated previously, not all misdemeanor crimes are dealt with at the magistrate level. Two factors are significant in this respect. First, only a small number of the possible misdemeanor offenses are under the jurisdiction of the Magistrate's Court. Second, jurisdiction over the small number of offenses eligible to be disposed of at the magistrate level is attained only if the defendant expressly submits to adjudication at this level. The latter aspect is the result of Delaware legislation which states that, before jurisdiction is realized at the magistrate level for any criminal offense (including motor vehicle violations), the magistrate must advise the accused of his right to have his case tried in the Court of Common Pleas. Thus, the defendant may refuse disposition at Magistrate's Court and have the case transferred to the Court of Common Pleas.

#### 2.2.2 Wilmington Municipal Court

The process of dealing with misdemeanors which occurs in the City of Wilmington is essentially the same as for those which occur in the remainder of New Castle County and which proceed through the magistrate system. The notable difference, however, lies with the jurisdiction of the courts.

The Municipal Court of Wilmington hears and disposes of all misdemeanors occurring within city limits. Unlike the Magistrate's Court, described above, this jurisdiction is plenary and does not allow for transfer to another court. Municipal Court also allows only for trial by judge without jury (this exception to the right of trial by jury is statutorily permitted). There is, however, the right to appeal if the penalty for the charged offense falls within the limits set forth in the Delaware Constitution--one month and/or one hundred dollar fine. In these cases, an appeal de novo to the Superior Court may be made.



The case screening procedures employed in Municipal Court by the City Solicitor are practically non-existent. This is, in large part, due to the manner of scheduling cases between the two courtrooms operated in Municipal Court. At arraignment, the defendant may make a plea to the charge. Should the case necessitate a trial, cases are randomly assigned to one of the two courtrooms operated by the city. City Solicitors (deputies) are assigned to a particular court and are responsible for the prosecution of all criminal cases appearing on the calendar for that court. Thus, deputies are rarely assigned to a specific case since there is no assurance that they will be assigned to the court in which the case will be tried. This lack of coordination between the scheduling of cases and the delegation of prosecutorial responsibility, complicated by a high volume of cases, means that screening activities are only infrequently and informally accomplished.

#### 2.2.3 Court of Common Pleas (CCP)

Misdemeanors which do not occur within the City of Wilmington and which are statutorily beyond the scope of final determination by the Magistrate's Courts must be dealt with in the Court of Common Pleas (CCP).

If a charge is for an offense which cannot be tried before a magistrate, the defendant is notified at the initial appearance (in the Magistrate's Court) of the arraignment date in the CCP. Defendants are informed at this time of the right to a preliminary hearing in order to determine probable cause. Cases then are forwarded by the magistrate, via the Office of the Clerk of Common Pleas, to the State Attorney General's Office. At arraignment in the CCP, the defendant is given a copy of the charge to which he is requested to plead. If necessary, a trial date is set at this time. Prosecution of cases

that go to trial before the CCP is provided by Assistant Attorney Generals (AAG's) working in the Criminal Division of the State Attorney General's Office.

Prosecution in the CCP is rotated among the available Assistant Attorney Generals. An Assistant Attorney General assigned to a CCP court on a day-to-day basis will generally read the information (formal charges) and interview the complainant and his witnesses on the same day the case is scheduled to be heard. This process typically occurs on an ad hoc basis from an hour to minutes before the actual trial is scheduled. On occasion, a more extensive pretrial preparation is provided, however, this is the exception rather than the rule.

With respect to the prosecution of a case, an anomaly in the structure of the court system in New Castle County creates a somewhat confused situation. Because of the highly concentrated population in the county, a large number of cases must be processed through the courts within the county. To manage this volume of cases, the CCP in New Castle County does not allow jury trials but only trials by a judge without jury. Additionally, because the right to trial by jury is granted in almost all criminal cases, the elective options, executed at the time of arraignment in the New Castle CCP, are trial by judge only, or trial by judge and jury in the Superior Court. If the defendant opts for a jury trial, the case is transferred to the Superior Court for adjudication. A preliminary hearing may be held (at the defendant's option) by the magistrate before the case is heard in the Superior Court.

Because of the options described above, it is possible to have a misdemeanor case move through two courts without receiving any scrutiny by prosecution personnel.

Prosecution of misdemeanor offenses tried in Superior Court is accomplished by an AAG who is assigned by the state to the case and scrutinizes these cases before trial occurs.

Despite the apparent formality of the options available to misdemeanor defendants in New Castle County, the lack of prescribed case screening procedures has rendered misdemeanor prosecution somewhat informal. In effect, the decision by a magistrate, Municipal Court judge, or prosecuting AAG to dismiss (or fail to prosecute) a case has rested entirely upon discretion.

### 2.3 Pretrial Release

The Delaware Constitution provides that: "All prisoners shall be bailable by sufficient sureties, unless for capital offenses when the proof is positive or the presumption great; and when persons are confined on accusation for such offenses their friends and counsel may at proper seasons have access to them."<sup>3</sup> Furthermore, this constitutional rule is amplified by Delaware Code (11 Del. C. 2104) which states that a person arrested and charged with a crime other than a capital offense shall be released either on his own recognizance, upon the execution of a secured personal appearance bond. Delaware Law (11 Del. C. 2101) also specifies a general policy which favors non-monetary conditions for pretrial release including release on one's own recognizance, but it does not eliminate the alternative of money bail (compensated sureties, cash, or 10 percent money bail). A number of factors which the court is required to consider in determining pretrial release alternatives are formally delineated by statute.

Because of the above alternatives, few misdemeanor defendants are incarcerated awaiting trial. Both the Magistrate's Courts and

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<sup>3</sup> Delaware Constitution, Article 1, Section 12.

the Wilmington Municipal Courts make liberal use of recognizance and unsecured bond. The State Department of Corrections employs four full-time and two part-time pretrial release officers to provide pretrial services to accused defendants in New Castle County (as well as Delaware's other two counties). In New Castle County, the assigned pretrial staff (one full-time and two part-time officers) have primarily directed their services to screening felony cases for pretrial release. Misdemeanants being presented before a Magistrate's Court are not usually rendered pretrial services from the Department of Corrections staff. Typically, magistrates make their own pretrial release/bail decisions regarding suspects charged with a misdemeanor offense. Should a magistrate need assistance in making a decision, the staff of the Department of Corrections is available. Should an alleged offender be detained in lieu of bail in Magistrate's Court, he is then transported to the State Correctional Center at Smyrna before receiving formal pretrial services. The Correctional Center houses the remaining three full-time pretrial probation officers. At the Center, one of the officers would interview (using a Vera-type form<sup>4</sup>) the detained individual and make recommendations regarding pretrial release. Should release be recommended, the individual would be taken before the closest magistrate to obtain permission.

Pretrial services for the Wilmington Municipal Court are provided by one full-time and two part-time officers. This staff provides services to all those detained in the city's lock-up on a 24-hour basis. Furthermore, as mentioned previously, Municipal Court is served by three attorney/judges who work staggered hours and cover from ten

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<sup>4</sup>Charles Ares, Anne Rankin, and Herbert Sturz, "The Manhattan Bail Project: An Interim Report on the Use of Pretrial Parole," New York University Law Review, Vol. 38, January, 1973.

to sixteen hours a day. Additional coverage, for bail purposes, is rendered by three city court clerks who serve as bail commissioners. Because of this coverage, no one is detained in lieu of bail (i.e., transported to Smyrna) from Municipal Court without first having a pretrial interview.

## 2.4 Sentencing and Sentencing Alternatives

### 2.4.1 Legislation for the Sentencing of Misdemeanants

Delaware vests authority to determine sentences in the trial judge, even in trials by jury. With respect to misdemeanors, legislation sets up four classes of offenses and provides sentencing limits as follows:

- a. The sentence for a Class A misdemeanor shall be fixed by the court and shall not exceed 2 years imprisonment and such fine or other conditions as the court may order; provided, however, that the court shall require a person convicted of issuing a worthless check to make restitution to the person to whom the worthless check was issued.
- b. The sentence for a Class B misdemeanor shall be fixed by the court and shall not exceed 6 months imprisonment and such fine or other conditions as the court may order.
- c. The sentence for a Class C misdemeanor shall be fixed by the court and shall not exceed 3 months imprisonment and such fine or other conditions as the court may order.
- d. The sentence of imprisonment for an unclassified misdemeanor shall be a definite sentence. The term shall be fixed by the court, and shall be in accordance with the sentence specified in the law defining the offense.<sup>5</sup>

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<sup>5</sup> Misdemeanors increase in seriousness from Class C to Class A. Class A misdemeanors include sexual assault, 3rd degree assault, and resisting arrest; Class B includes prostitution, disorderly conduct, and menacing; and Class C includes trespassing, public intoxication, and inhaling toxic fumes.

When a person is convicted of any offense except for a Class A felony (capital crime), the court may take the following actions:

- a. Impose a fine as provided by law for the offense.
- b. Impose a fine and place the offender on probation.
- c. Commit the offender to the Department of Health and Social Services, with or without a fine, or with any other punishment provided by law for the offense.
- d. Suspend the imposition or execution of sentence.
- e. Place the offender on probation.
- f. Impose a period of imprisonment and place the offender on probation to commence when he is released from prison.

A significant number of misdemeanants receive fines upon conviction. Maximum fines for each class of misdemeanor are set by law. The court is permitted by law to allow for the payment of fines by installment. The courts in Delaware are not authorized to impose a jail sentence in lieu of payment of a fine. In cases in which the fine cannot be paid, a few alternative methods of payment must be provided. The legislature has provided an alternative which sets up a system whereby an offender can pay off his fine by working for the Department of Health and Social Services.

#### 2.4.2 Presentence Reports

The Delaware Law in regard to presentence investigations has recently changed. Prior to this change, the Delaware Code required a presentence report in every case which could result in a sentence of six months or more (incarceration, suspension, or probation). The recent change makes the presentence report a matter for the court's discretion. The court may now call for a presentence investigation (and report) in every case. However, a presentence investigation is not mandatory for any case or class of cases. A presentence report may only be ordered after conviction.

When requested, presentence reports for misdemeanants, including formal sentencing recommendations, are prepared by personnel of the Division of Adult Corrections. In the past, the only presentence report available to sentencing judges was an extensive background report which required two to four weeks to prepare. The major delaying factor in the preparation of this report was the manual procedure used for collecting and verifying arrest and criminal history data. Recently, a shorter form was developed. However, this procedure still involves a preparation period in excess of two weeks. Because of these time delays, judges and magistrates sentence most misdemeanants without ordering a formal presentence report.

When prepared, presentence reports are privileged and not a public record. Law allows the offender, the State Department of Justice, Bureau of Corrections, and Bureau of Probation access to the record where appropriate.

#### 2.4.3 Probation

Probation is an available sentence, either alone or together with a fine or a sentence of confinement for all offenses other than Class A felonies. Delaware judges, as authorized by law, frequently impose and suspend sentences of confinement where probation is to be granted. The discharge to probation of a case may be conditional without a finding of guilt. This is typically done in cases of first offenders charged with possession of marijuana.

The court sets the period of probation. The length of probation is limited to the maximum term available for the offense involved, or for one year, whichever is longer. A probation sentence may be administered without a condition of supervision.

Presently, the Division of Adult Corrections handles all cases of supervised probation throughout New Castle County, including the City of Wilmington. A staff of 18 officers and one supervisor handle a mixed caseload of both felons and misdemeanants.

## 2.5 Summary

This description of misdemeanor case processing in New Castle County suggests that citation, summons, and case screening--procedures to manage or handle cases before prosecution--were the most relevant of the ILCCH components. Citations were only being used by police in the City of Wilmington and there only for drunk and disorderly cases. Similarly, summons were used only by the Wilmington Municipal Court.

Case screening was practically non-existent in the Magistrate's Court, the Wilmington Municipal Court, and the Court of Common Pleas. Case preparation was often a same-day affair; prosecution by an attorney was not even a possibility at the Magistrate's level. On the other hand, the applicability of PROMIS was not obvious. The central prosecutorial agency was the State Attorney General's Office and the need for an information system and the interest were unclear.

Pretrial release interviews, presentence investigations, and probation supervision were all regular functions of the State Department of Corrections. All three functions were heavily used by the lower courts, making the applicability of the ILCCH components uncertain.

In all, New Castle County seemed to have a strong need for some components and no need for others. Additionally, case processing in the County could be complex because of the overlapping jurisdictions of the courts there.



### 3.0 ILCCH PROGRAM DEVELOPMENT

#### 3.1 ILCCH Initiation and Grant Development

##### 3.1.1 Site Selection and Grant Preparation

It appears that Wilmington (i.e., New Castle County) was first recommended as a site for the implementation of the ILCCH program in February 1975 by the court specialist in the Philadelphia Regional Office, a one-time magistrate in Delaware. Based on his feeling that Delaware had a unified, "simple," court system and based on his experience of the Delaware lower courts, the court specialist felt that Wilmington afforded a good opportunity to demonstrate the program. As far as can be determined, no other sites in the Philadelphia region were recommended as potential grantees.

The court specialist contacted the Delaware state criminal justice planning agency, the Delaware Agency to Reduce Crime (DARC), and informed its Planning Director of the ILCCH concept. The Director is said to have indicated agreement that the conditions in New Castle County (and Delaware) did indeed render the program appropriate. Thus, the regional court specialist's recommendation and the DARC's interest in the program were significant in determining that New Castle County would be considered (and eventually selected) as an ILCCH program site.

As a result of these contacts, DARC's Planning Director and other staff working in the courts area contacted those participants in the criminal justice system most likely to be involved in the program should it be funded. Under the auspices of the INSLAW site selection visit, twenty-three participants were brought together on March 12, 1975, to hear a presentation on the ILCCH Program and to discuss the possibility of pursuing funding from the LEAA.

INSLAW's visit to Wilmington, on March 12 and 13 was supposed to take place after the Philadelphia Regional Office and DARC representatives had briefed the ILCCH program to appropriate local officials. This pre-visit briefing, however, had not occurred as anticipated. According to INSLAW, it was clear during the meeting that most of the participants were unfamiliar with the ILCCH program and its component elements. INSLAW, nonetheless, described the program and preliminary discussions were conducted. The expressed level of interest, however, was low. Those attending the meeting were generally confused about the nature of the program and expressed a desire to reshape it conceptually to meet their own needs. As a result of this confusion, the INSLAW evaluators left Wilmington unable to perform their site evaluation role. Shortly afterward, in the apparent absence of any objective rationale, Wilmington was selected as an ILCCH site by the LEAA.

After the decision was made that Wilmington would be an ILCCH site, efforts by DARC were directed at attempting to develop sufficient local interest in the program to prepare a grant application for submission to LEAA by the May 15, 1975 deadline. DARC's Planning Director assumed the major responsibility by contacting members of the criminal justice community to explain the ILCCH concept and develop a higher level of interest. During this process, there was little receptivity to the program as defined by the LEAA. The DARC Planning Director admitted the approach to be taken "was a bit unclear" but concluded that there was enough interest on the part of a number of individuals to further pursue the ILCCH program development.<sup>6</sup> Because it was felt that sufficient desire for the program did in fact exist, DARC

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<sup>6</sup>DARC memo from Director of Planning to Executive Director, January 28, 1976.

formally informed the LEAA on April 8, 1975 of "substantial interest in developing a program that generally meets your prescribed package."<sup>7</sup>

Subsequent to the initial March 12, 1975 meeting, DARC planners proceeded to develop a general program for ILCCH that would eventually constitute the grant application. In two later meetings to review this plan, the level of attendance by agency personnel who would be involved with ILCCH was sparse compared to the original March meeting. Affected agencies were informed by DARC regarding the purpose of meetings and of their right to appeal specific plans. According to the DARC Planning Director, the grant development process was made difficult because agencies that were not interested in the components or those that perceived they would not be involved with the various ILCCH components did not attend any further meetings.<sup>8</sup> Nonetheless, DARC proceeded to develop the grant application, reviewing general component concepts with those most interested in proceeding with the program. A final grant application was submitted to the LEAA by DARC on May 16, 1975, despite the feeling of DARC's Planning Director that Wilmington's flexibility in terms of maximum component implementation was "limited."<sup>9</sup>

### 3.1.2 Initial Program Concept

The discretionary grant application for the ILCCH Program in Wilmington was submitted by DARC (as the grantee) for the amount of \$202,961 over an 18-month period. According to this application,

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<sup>7</sup> DARC Letter to the LEAA, dated 8 April 1976.

<sup>8</sup> DARC Memo, dated January 28, 1976.

<sup>9</sup> Ibid.

the effort to implement the designated ILCCH program components would begin with the hiring of a Mass Case Coordinator (MCC) in July 1975 and all the elements would be fully operational by January 1976. The MCC was envisioned to be selected by a steering committee convened by DARC and consisting of the following members:

- DARC's Executive Director (or designee);
- Attorney General (or designee);
- Mayor, City of Wilmington (or designee);
- Chief Justice, Supreme Court (or designee);
- Director, Division of Adult Corrections (or designee); and
- Deputy Administrator for the Justice of the Peace Courts.

This committee would provide direction to the MCC on the overall policy and direction of the program. The MCC, however, would remain relatively independent in terms of establishing the program's organization, and working with various agencies in the implementation and evaluation of the program's component elements.

The Wilmington grant application submitted by DARC provided little hard information to demonstrate the need for a program like ILCCH or to assess the suitability of the component elements for the existing criminal justice system. The lack of information regarding the magnitude or nature of the misdemeanor caseload, of lower court jurisdiction, and of the case flow interrelationships among criminal justice agencies made it clear that an adequate statistical base did not exist (or was not used) during the grant application stage of the program's development. Furthermore, there was little in the grant application which demonstrated a clear understanding of the ILCCH concept and its dependency on interagency coordination and planning for system-wide solutions. Instead there were brief reiterations of the ILCCH components and how they might be incorporated within existing criminal justice agencies in New Castle County. The

emphasis therefore, was upon a number of vague initial steps that could be taken by the grantee to explore various possibilities for component development after the award was made and a Mass Case Coordinator (MCC) hired. Descriptions of the component concepts comprised the bulk of the grant documentation in the application and little attention was given to any system-wide impact of the program or to its applicability to Wilmington.

This component orientation toward the program was later to be confirmed by DARC's Planning Director in a memo to the agency's Executive Director:

To the extent that this (ILCCH) was a prescriptive package which NILECJ wished to implement to the maximum degree possible at 5 sites, Delaware's flexibility was indeed limited. However, the matter was not forced on anyone. It was not mandatory that all 8 elements be addressed. It is indeed true that if any one component chose not to participate, the project could have gone forward and would have with the available funds reallocated to some other elements. These were some of the ground rules for this particular pot of money.<sup>10</sup>

For the police citation component, interest in expanding its use in Wilmington and in instituting its use throughout New Castle County was noted. Plans for implementation of this component therefore were expressed in terms of exploring the possible state-wide use of citations. An analysis of the potential for the court summons component in the Magistrate's Courts in New Castle County (to be conducted by the MCC) was suggested as the most likely preliminary step for developing this element.

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<sup>10</sup> DARC memo, dated January 28, 1976.

DARC's plans with regard to case screening were basically to utilize ILCCH funds to augment existing (infrequent and informal) prosecutorial screening through the assignment of legal and paralegal personnel to New Castle County Courts, including Wilmington Municipal Court, the Court of Common Pleas and the Magistrate's Courts. The Magistrate's Courts were identified as presenting a particularly serious problem insofar as no formal case screening or prosecution from the State's Attorney General's Office was provided to cases tried at this level. To rectify this, plans for the case screening component suggested the funding of a Deputy Attorney General (DAG) and paralegal for assignment to New Castle County's busier Magistrate's Courts. The unusual aspect of this plan, however, was that the DAG assigned would prosecute cases in Magistrate's Court as well as provide case screening services. While case screening was the most detailed of the components plans, the tentative nature of this plan was still recognized, however, and further analysis by the MCC was suggested to determine an "exact scheme" for implementation.

PROMIS was cited as being a matter of interest to Delaware's Attorney General. A strategy was described in the grant application which indicated that implementation of the PROMIS component would be consistent with Delaware's approved Comprehensive Data Plan (CDS). To accomplish this, it was suggested that a manual PROMIS system be considered for the State Attorney General's Office, and be coordinated with the efforts of a systems analyst being hired to assist in the planned design work for the state's CDS. Plans indicate that a tentative agreement had been arranged (by DARC) for a joint CDS/MCC analysis of the AG's operation so that the implementation of the basic principles of PROMIS could be assessed.

With respect to pretrial release services, the grant application indicated that deficiencies primarily existed with the existing

coverage provided to the County's Magistrate Courts. Because of disparities in distance and hours of operations some of these courts rarely had the benefit of pretrial interview reports. Additionally, there was no round-the-clock pretrial coverage in Wilmington's Municipal Court and there was a lack of quick access to criminal history records in both the Magistrate's and Municipal Courts. DARC indicates that the ILCCH project would fund two probation officers to provide expanded pretrial services to the Magistrate's Courts. Other changes in pretrial release procedures, however, were to be explored by the MCC.

Few specifics were provided by DARC with regard to the short form presentence report and the selected offender probation components in the grant application. Plans for the development and printing of a modified short form presentence report and the establishment of a two-man misdemeanor probation unit in the State Department of Adult Corrections (DAC) were suggested as possible component implementation strategies.

As a whole the Wilmington grant application and its level of detail reflected the fact that it was primarily a DARC in-house effort developed with little input from the personnel and agencies most likely to be affected. Plans for component implementation were tentative and lacked a sense of direction primarily because the actual need for and the applicability of each component had not yet been determined. Because of this, the MCC (at the direction of the steering committee) was seen in the grant application as the key to the development of the Wilmington program. The MCC was expected to assume broad responsibilities in the assessment of the misdemeanor processing system in New Castle County and in working with the steering committee to design the specifics of component implementation. In sum, produced under considerable time pressures and reflective of

DARC, rather than agency or system-wide, interest, the grant application emphasized the review, analysis, and assessment of the misdemeanor processing system before determining the scope and design of most component elements. As a result, the MCC role was given a pre-dominance beyond the suggested coordinative role; the MCC in New Castle County would necessarily have major responsibilities for program design and component administration and implementation.

### 3.2 Program Start-Up

#### 3.2.1 Hiring the MCC

DARC received notice in early August, 1975 from the LEAA that its application for funds to become an ILCCH demonstration site had been approved. The Wilmington program was to be referred to as the Misdemeanant Processing Program (MPP). The LEAA, funding four (rather than the five as originally anticipated) ILCCH sites, informed DARC that the budget for its program would be \$250,000. Conditions of the grant award required DARC to provide a detailed work plan for the program's activities with specified objectives to facilitate evaluation. Additionally, DARC was required to provide the LEAA with a more detailed plan of MCC activities to include:

- a detailed statement of the position's authority;
- a statement of administrative and management responsibilities; and
- a description of the proposed MCC/steering committee relationship.

Faced with these requirements conditional upon acceptance of the MPP grant, DARC convened a meeting of the MPP steering committee on August 12, 1975. Though the meeting was poorly attended, DARC was able to clarify the role and authority of the MCC to the extent that a job description could be written and the position advertised. Because of the lack of specificity regarding component development, because of LEAA's requirement for a detailed work plan, and because



of the reliance placed on the MCC in this regard, it had become extremely important to DARC that the position be filled as soon as possible. In October, 1975 the committee chose Robert Welshmer, a former state Deputy Attorney General, to fill the position presumably because of his knowledge of Delaware's criminal justice system and its chief participants. November 1, 1975, therefore was established as the starting date for the MPP, to coincide with the MCC's employment on the project.

### 3.2.2 MCC/Steering Committee Relationship

The MPP steering committee, at DARC's suggestion, decided that the MCC position should be established as a privately-contracted consultant to the committee. Administratively, the MCC would report directly to the steering committee for approval of activities undertaken as a result of the MPP. The MCC would have no power to obligate funds without the steering committee's approval. DARC would act as the fiscal agent for the committee. It was expected that by working with and through the steering committee members, the MCC would receive direction regarding the development and implementation of each of the components. The committee was also expected to facilitate the coordination of implementation plans with the various agencies comprising the New Castle County criminal justice system.

Upon assuming the position, the MCC commenced efforts to explore the development of the ILCCH components and establish a relationship with the steering committee. By January 1976, the MCC began to feel that the future of the project was seriously threatened. Failures at early efforts to find any real agency commitment to the program led the MCC to this conclusion which he expressed in a lengthy letter discussing problems with the program to the DARC Executive Director.<sup>11</sup>

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<sup>11</sup> Letter to the Executive Director of the DARC from MCC, dated January 15, 1976.

Probably as a result of his unfamiliarity with the manner in which the New Castle County program had evolved, the MCC has had expectations that some level of pre-grant commitment to the ILCCH components by the steering committee existed. Instead, as noted in the letter, he found the steering committee to be a "nebulous..unenthusiastic" body with a membership consisting of designees rather than agency heads empowered to make commitments to component plans. Expressions of disinterest, ignorance about component plans, and outright negative feelings about the program were not uncommon. Whatever interest which did exist to pursue the development of components, he concluded, came not from a desire to implement ILCCH, but rather to obtain funding for tangentially related items (e.g., personnel, equipment). In discussing this lack of commitment he had found among steering committee members, the MCC related:

....I get a variety of reactions. None will admit that they will not cooperate with the project; when threatened with a loss of federal money, either from this grant or others, they all express a willingness to cooperate. Cooperation means total commitment, as expressed by the Magistrate's Courts, or fill in the blanks to get two deputies, as expressed by the Attorney General's Office, or revise the plan to fit agency needs, as expressed by Corrections.<sup>12</sup>

The MCC identified additional problems with the steering committee which also aggravated his attempts at component development. Two important representatives of the criminal justice community, the police and the State Public Defender's Office, were not included as member agencies. The absence of any police representation was particularly surprising in light of the police citation component. Representation of the Public Defender's office, which was not directly

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<sup>12</sup>Letter to the Executive Director of the DARC from MCC, dated January 15, 1976.

affected by any single ILCCH component, was felt to be necessary because the planned use of ILCCH funds to assign a prosecutor to the Magistrate's Courts could significantly increase the need for defense services there.

Summing up his experiences as of January 1976, the MCC pointed out to the DARC Executive Director that the conception and the organizational responsibilities of the MCC position needed revision. Furthermore, he remarked that the need to determine the requirements for ILCCH program components in Wilmington and then to "sell" the agencies on them would set back the timely implementation of the MPP. On the other hand, he felt that these problems alone, if addressed quickly, would not be insurmountable.

However, other component development problems had surfaced, and these were discussed by the MCC in a letter to the LEAA's Regional Office in Philadelphia also written, in January 1976.<sup>13</sup> In this letter the MCC reiterated the problems discussed above but added some new information about his own findings as to the need for ILCCH components. According to this letter, the MCC had found little requirement for additional pretrial services in New Castle County's Magistrate's Courts, and the Department of Corrections not only disputed the need for the pretrial and probation components, but were generally adverse to involvement with a short-term Federal initiative.

Overall, the MCC clearly recognized during these early months that pre-application planning and preparation had been inadequate and that if the program was to survive much needed to be done to work with specific agency representatives to restructure ILCCH components to fit the needs of New Castle County.

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<sup>13</sup> MCC letter to Philadelphia's Regional Office Court Specialist, dated January 6, 1976.

The MCC's problems with program start-up and component development were further complicated by personnel problems resulting from the nature of his employment as a consultant to the steering committee. A ruling by the State Department of Finance, Budget and Personnel that the consultant arrangement was inconsistent with state policy and in violation of Social Security regulations prevented the MCC from hiring other staff for the MPP program. The alternatives were to either abolish the existing MCC position and redraft an acceptable consultant contract, or to place the position within the Delaware Merit System under an existing state agency.

### 3.3 The Restructuring of the MCC Position

To resolve the problems which had been encountered, the MCC convened the steering committee in January. The committee agreed with the MCC's recommendation to include the Public Defender and Chairman of Delaware's Police Chief Association on the committee. The committee voted to restructure the MPP by placing it and the MCC position within an existing state agency. At the same time, with this change, the steering committee removed itself from considering component development and specific implementation plans and took a purely advisory role. It was felt that these actions would address the need for immediate clear lines of authority for the MCC to pursue implementation plans independently with specific agencies. Significantly, this was the last formal meeting of the steering committee.

The state agency chosen in which to situate the program and the MCC was the Administrative Office of the Courts (AOC). It appeared that this arrangement was settled upon for two reasons. First, the AOC represented a neutral setting between prosecution and defense. Second, the courts had been the most receptive to the basic concepts of the ILCCH Program; additionally, the AOC was prestigious because it was headed by the Chief Justice of the Delaware Supreme Court.

Thus, the AOC was made a subgrantee to DARC and the subgrant was accepted by the LEAA Regional Office effective February 1, 1976. As a result of this action, the MCC position was placed directly on the state payroll (but exempt from state civil service system requirements).

The substance of the subgrant of the MPP to DARC was similar to the original ILCCH application. A few differences are worth noting since they reflect some early efforts by the MCC to expand the original grant application in planning for the implementation of the MPP components. In addition to providing more detail in terms of New Castle County's current status with regard to certain components (i.e., the use of citations/summons, pretrial services) the subgrant also presented the results of the MCC's early efforts to determine the applicability of DARC's original plans for the components. For instance, for the police citation component, the MCC indicated the need to establish an ad hoc committee of Police Chiefs to assist in developing a uniform citation format and establishing suggested procedures and training for their use. The court summons plans were expanded based on the MCC's initial attempts to determine what needed to be done to implement the component. A major obstacle to court summons was found to be the apprehension of police departments that reductions in their budgets might result from a decrease in warrant-initiated, police-served arrests. Plans therefore were expanded to include the need for increased coordination between the courts and police to address these problems.

Finally, the subgrant reflected the changes in the MCC position. The hiring problems encountered were noted as was the need to prolong the original six-month startup period, thus delaying the full implementation of the components. The MCC position was also expanded by providing for a staff assistant. The need for this position was

justified by the MCC's assessment that major efforts in planning and designing the applications of the components, far beyond DARC's original expectations, were needed. (It had become apparent through initial contacts with many of the agencies affected by the MPP that the interest and information needed to design, implement, and evaluate the component elements were not readily available.) Thus it was anticipated that the additional responsibilities of the MCC in the planning, implementation, administration, and overall coordination of the MPP, necessitated this new position.

### 3.4 Local Evaluation

The MPP grant application in Wilmington provided that the MCC would have the major responsibility for the evaluation of the program. Because of problems and delays previously mentioned in the start-up and component development aspects of the Wilmington effort, plans for evaluation were also delayed. Seven thousand dollars had been allocated for the local evaluation in the original MPP grant application. Early efforts by the MCC were directed at obtaining a clear idea of how to provide for the evaluation of the MPP's components; a tentative evaluation plan was not prepared until February, 1976. This plan identified specific objectives and anticipated effects for each of the components. Additionally suggested measures of effectiveness were delineated for the evaluation of each component. Overall the evaluation plan developed by the MCC corresponded closely to the needs of the national-level evaluation plan developed by MITRE.

After the preparation of the evaluation plan, which was submitted to the LEAA regional office, a meeting was held in April, 1976, to discuss how the local evaluation effort would proceed. Participating in this meeting were the LEAA regional court specialist, the DARC Evaluation Director, national-level evaluators from MITRE, and the

MCC. Additionally, at the invitation of the regional court specialist, representatives of a local university-based consulting firm, University of Delaware Technical Services (UDTS), were also invited to attend this meeting.

During the meeting, specific evaluation considerations were discussed, including the critical nature of the time and money constraints facing the MPP evaluation effort. It was clear at this meeting that the regional court specialist felt that Wilmington's local evaluation needs should be met by contracting on a sole source basis to obtain local evaluation assistance. In fact, UDTS had been invited to attend this meeting because the court specialist thought they were a likely source for these services. Alternatively, the MCC felt that by hiring a part-time evaluator/data collector the MPP could adequately fulfill the local evaluation requirements. Since the LEAA had to approve the decision, however, the sole-source consultant approach was taken.

As the decision was taken to contract with UDTS, their representatives were briefed on the scope of the evaluation, funding, and the working time frame at the meeting described above. UDTS submitted a formal proposal for the evaluation of the MPP on June 1, 1976.

The proposal was found to be unacceptable to the MCC. Not only did it exceed the funding limitation (\$19,500 vs. \$7,000) but it also provided little detail as to how specific evaluation tasks would be performed. Furthermore UDTS proposed to have the MCC and component staff perform most of the actual data collection leaving it unclear what the UDTS role would be. By this time the MPP was proceeding rapidly with component implementation and the local evaluation plans had yet to be formalized.

The MCC knew that the Las Vegas program utilized an \$8,000 local evaluation budget to hire an evaluation/data collection assistant on a part-time consulting basis. The MCC, faced with the prospect of beginning component operation without an evaluation capability, requested authority from the LEAA regional office to proceed in a similar fashion in Wilmington. Permission was given by the LEAA for this course of action in July. An evaluator, a PhD candidate in sociology at New York University, was selected to work on a consultant basis 2 to 3 days per week in order to provide the required local evaluation services. After overcoming difficulties regarding the propriety of his consultant contract, the local evaluation assistant began his duties in the middle of September 1976.

The local evaluator was fortunate to become involved with MPP at a time when component implementation and early operational activities were occurring. Close involvement with component activities on a day-to-day basis, and an increasing reliance by the MCC on the evaluator to trouble-shoot component procedural difficulties added additional importance to the local evaluator's role in Wilmington. At first the evaluator's efforts were directed in larger part at organizing component procedures to ensure the recording of evaluation data. However, as the program progressed into the latter stages of 1976 the evaluator was given increased responsibilities for monitoring and working with component staff (particularly case screening and select offender probation) to assist in resolving operational difficulties. In March 1977, the MCC and staff assistant positions were terminated leaving the local evaluator to wind up the evaluation of the components.



#### 4.0 POLICE CITATION

As already discussed, Delaware Law provides for the issuance of citations instead of arrests for a misdemeanor. The law stipulates, however, that the form is restricted to use by police officers only in situations where an offense is observed.

The police citation component appears to have been a matter of interest to DARC sometime before the inception of MPP. First, during the summer of 1975, DARC had conducted an informal staff study of the police departments in the state to assess police reaction to the citation. As a result of this study there was some evidence that police agencies approved of the component concept. Second, the City of Wilmington made limited use of citations prior to MPP, restricting their use almost exclusively to public drunkenness offenses where the defendant was placed in protective custody and released when sober.

The plan for the citation component was to develop a new form and procedures and to attempt to have all police agencies in the State participate by using citations. Because police representatives were not included on the steering committee designated by DARC, the MCC, faced with dealing with a large number of police departments, decided a forum for discussion of the component concept was needed. In November 1975, contact was made with the Delaware Police Chiefs Regional Council (DPCRC) consisting of a membership which included heads of all 36 police agencies in the state. In a series of meetings and individual contacts with members of this group from November 1975 through April 1976, the MCC was able to solicit an agreement by the DPCRC to support the citation component. To do this the MCC had to alleviate a number of fears that the citation might supplant traditional arrest procedures or that it might result in more cumbersome paperwork requirements for police. Furthermore, reacting to local

fears about participating in Federal programs, the MCC had to assure the chiefs that police citations were not to be forced upon unwilling agencies. In fact the MCC made clear that the component (as well as the MCC's technical assistance) was being made available on a voluntary basis to any agency which felt a need existed.

Citations could be justified in terms of potential savings. Small police departments, in predominantly rural areas of the state, liked the idea of not having to take offenders immediately before a magistrate for presentment. Time saving which might result because of physical separation from the Magistrate's Courts was seen as a particularly attractive feature of the component. On the other hand, the larger departments, primarily those in New Castle County, saw the component as a way to handle minor nuisance offenses particularly during the warm weather months.

With the support from the Council for the component, an ad hoc committee of police chiefs was formed to work with the MCC to advise and help draft procedures for citation use. At a meeting of this committee in March 1976, a tentative format for the citation was approved. This format and suggested procedures for citation use were then coordinated with individual police agencies resulting in a final format and procedures by May 1976.

As a result of the MCC's contacts with the local police, most agencies agreed to participate in the component. The City of Wilmington, however, was a special exception. While the Wilmington Police and the Chief Judge of the City's Municipal Court agreed to use the newly developed citation forms rather than the one being used previously by the department, efforts by the MCC to convince police officials to expand the use of citations were not successful. Wilmington police planners felt that practical considerations did not

warrant increased use of the citation. Interestingly, the planners expression of disinterest was based on a problem which would eventually restrict the police citation component in all police agencies in the state. Most police agencies in the state (including the Wilmington Police Department) had policies based on the practice and policies of the State Police. These policies interpreted the citation to be an arrest and thus required the State Bureau of Identification to be provided with booking data, including fingerprints, when a citation is issued. Wilmington's interpretation of this statutory requirement, therefore meant that the issuance of a citation did not obviate the necessity to transport a suspect to a police station for formal booking. Additionally, the use of a centralized pickup system for arrestees, and the central location of the Court and police agencies in the city were seen as further justifying the city's limiting its participation to only the adoption of the new form. Because of this reaction the MCC's component implementation efforts did not involve further discussion with the Wilmington police.

Distribution of the new citation forms and suggested procedures for their use, and presentation of training sessions for the use of both police and courts were conducted by the MCC in August 1976. To maximize control over data collection, initial implementation activities by the MCC were limited to all of the police departments in New Castle and Kent County, the beach resorts of Rehoboth and Lewes, and the State Police. The official date for implementation of citations was August 15, 1976. As of that date, all courts in the state were instructed to begin processing misdemeanor charges on the new form. Along with the citation books, the MCC also distributed data collection forms for police agencies to report the frequency of citation use. Police agencies deciding to use the citation were also requested to provide a copy of departmental procedures to the MPP for use in evaluation and further component development.

Since state law already permitted the use of citations for police-observed misdemeanor offenses, development by the MCC of formal procedures for component use at the local level involved reducing the broad statutory guidelines (i.e., residence in Delaware, agreement to appear, existence of "reasonable cause") to specific policy recommendations for individual police departments. The finalized procedures were clear in pointing out the discretion allowed police in deciding whether or not to issue a citation. In line with existing legislation, the model procedures suggested that citation issuance should be based upon the same considerations that go into the bail setting process; in other words, a citation was appropriate in those instances in which Delaware Courts would release a defendant on his own recognizance or unsecured bail. Other criteria used by a variety of police agencies across the nation were also suggested.

The procedures developed by the MCC also provided some guidance regarding alternative ways to use the citation or depended on departmental policy regarding the need to formally process (book and fingerprint) misdemeanor violators. Procedures for issuing citations at the stationhouse as well as on-site were detailed and it was suggested that the departmental policy regarding booking and fingerprinting be clarified to determine how the citation could be used. Finally, the procedures detailed the required distribution of the various copies of the form to the courts, the method by which arraignment dates would be coordinated, and a summary of the defendant's rights when faced with citation processing.

The citation component did not become a significant alternative to arrest for Delaware's police departments as a whole during the MPP project. Many of the departments in the state (27 of the 36 police agencies) provided with the citation forms either did not use the form or did not bother to report usage to the MCC on the data sheets

provided. Measured use (agencies reporting to the MCC) of citations is indicated in Table I. Only 25 percent of the police agencies throughout the state (that is, 9) apparently found some use for the citation, utilizing it 522 times over the ten-month period from August 1976 through May 1977. Two agencies, the Newark City and New Castle County departments accounted for 87 percent (456 of 522) of the citations used during the period and were the agencies to most aggressively pursue the citation component with the MCC. Use of the citation by these two departments was, however, under departmental guidelines which prevent the citation from being issued at the scene of a police-observed crime. Because of departmental interpretations of existing legislation and State Bureau of Identification requirements (mentioned earlier in this section) practically all citations used by these departments were issued after booking and fingerprinting at the police station. Thus, citations have not alleviated the need for police to apprehend and transport defendants to the stationhouse. Because of this use, savings in police officer time are restricted to the elimination of the need to transport a suspected offender to the nearest magistrate for warrant authorization and initial appearance--a maximum savings of perhaps one-half to one hour of a police officer's time. This saving in time, however, does not apply to all citations issued, since a minor offender, when formally arrested at an inconvenient time (i.e., nearest court closed), has occasionally been released informally on condition of their agreement to make an initial appearance before a magistrate at a later time.

Despite constraints placed upon their use, however, stationhouse citations have been adopted as a frequent method for processing minor police-observed misdemeanors by both the Newark and New Castle County Police Departments. Data collected for a three-month period by the MPP local evaluator regarding the level of police-observed misdemeanor crimes in both of these jurisdictions suggest that citations were used



TABLE I

CITATION USE BY POLICE DEPARTMENTS IN DELAWARE<sup>1</sup>

POLICE AGENCY	(PATROL PERSONNEL)	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	TOTAL
NEW CASTLE COUNTY POLICE DEPARTMENT <sup>2</sup>	(140)	23	37	36	16	31	15	30	31	55	41	315
NEWARK <sup>2</sup>	(40)	-	6	22	15	19	17	23	27	6	6	141
REHOBOTH	(30)	8	-	-	2	-	-	1	-	-	-	11
LEWES	(12)	-	3	-	-	-	-	-	-	-	-	3
ELSMERE	(12)	-	5	6	3	-	5	2	2	-	-	23
NEW CASTLE CITY	(8)	1	2	3	-	5	2	2	-	-	-	15
DELAWARE CITY	(7)	-	2	1	4	3	-	3	-	-	-	13
MILFORD	(19)	-	-	-	1	-	2	-	-	-	-	3
NEWPORT	(7)	-	-	-	-	2	-	-	1	-	5	8
TOTAL		32	55	68	31	60	41	61	61	61	52	522

<sup>1</sup>USE OF CITATIONS BY WILMINGTON IS NOT INCLUDED.

<sup>2</sup>CITATIONS FOR THESE TWO DEPARTMENTS WERE ISSUED EXCLUSIVELY AT THE POLICE STATION AFTER BOOKING AND FINGERPRINTING.

in most eligible instances and that their availability possibly has increased police willingness to take action on offenses heretofore handled informally. The fact, however, that police-observed offenses constituted only a small portion (20 percent or 35 offenses per month for New Castle County and 10 percent or 15 offenses per month for Newark) of the total misdemeanor crimes, significantly limited citation potential in these jurisdictions and their impact on overall case processing or on reported misdemeanor rates or levels.

In addition to the Newark and New Castle County Departments other police departments including the Delaware State Police expressed interest in (but did not extensively use) citations. These departments suggested to the MCC that modifications in state policy needed to be effected before citation could be considered an attractive alternative to arrest. The State Police attempted to eliminate the need for immediate booking and fingerprinting of suspects by placing fingerprinting and processing facilities in the Magistrate's Courts so that citations could be issued in the field. This attempt was successfully fought by the judiciary as being "demeaning" to the character of the courts. The State Police, along with the chiefs of the Newark and New Castle County Departments, have realized the desirability (in terms of cost savings) of revising state-wide policy to allow expanded citation usage by eliminating the need to book and fingerprint "certain" defendants. Because of this commitment, the State Police, the State Bureau of Identification and the Chief of the Newark Police Department (as head of the Delaware Chief's Association) were reviewing (May 1977) current policies regarding arrest information requirements with the hope of making substantial changes to allow local departments more leeway for citation use. It was felt that by solving this problem a much wider acceptance of the citation concept by all police departments would occur.



Continuation of citation use in Delaware appears to be promising especially if an agreement regarding fingerprinting and booking policy with the State Bureau of Identification is reached. There are, however, other impediments to large-scale usage of the citation which police and judges alike have suggested need to be addressed before this alternative can become totally acceptable in Delaware. Principal among these is the reliance by police on arrests as an indicator of their performance and the use of the booking process as a means for maintaining profiles on potential offenders. To date, however, it is clear that while the MPP has promoted acceptance of the citation concept in some police agencies, adoption of the process as an arrest alternative has not been widespread and it has yet to have much impact on the handling of misdemeanors.

## 5.0 COURT SUMMONS

The court summons component seemed well suited to the needs of Wilmington and New Castle County Courts. The rules of all the Delaware Courts with criminal jurisdiction permitted the issuance of a summons rather than an arrest warrant when making a formal criminal charge. Of particular interest to the MPP were the courts of first instance for all criminal charges in New Castle County: the Magistrate's Courts and the Wilmington Municipal Court. The Wilmington Municipal Court, which handles roughly one-third of the criminal complaints in the county, had been using summons frequently for misdemeanors in lieu of arrest warrants. Approximately one-third of all citizen-initiated misdemeanor complaints filed with the Municipal Court were handled through the use of court summons with an apparently successful appearance rate (reported to be 97 percent).

The Magistrate's Courts in the county did not utilize a summons for citizen-based complaints prior to MPP, though permitted to do so by law. Instead, upon such a complaint, a warrant for an arrest was issued by a magistrate, given the determination of reasonable cause. Warrants were then executed by the police and the defendant was brought before the magistrate.

The MCC's examination of the warrant-issuing procedures during the early months of the MPP yielded information that convinced him of the need for the court summons component. Most obvious was that issuing a warrant and formally arresting citizens was an expensive, time-consuming, and often demeaning process when dealing with minor neighborhood-oriented offenses (i.e., stray animals, squabbles between neighbors, etc.) . Secondly, existing difficulties with executing warrants issued by the courts rendered them unresponsive to the complainant. The MCC found a substantial backlog of unexecuted warrants in the two largest police agencies in the county outside of the

City of Wilmington--The New Castle County Police and the Delaware State Police. Both departments, despite employing special warrant execution teams, were found to have over one thousand unexecuted warrants. Because most attention was given to felonies and the most serious misdemeanor offenses, a large portion of the unserved warrants were for minor citizen-based complaints--the type for which court summons would be appropriate. Given the workload of these departments it was conceivable that some of these warrants would never be executed.<sup>14</sup>

The Magistrate's Courts, previous to the MPP, had expressed an interest in establishing court summons procedures. In fact, the Deputy Administrator of the Magistrate's Courts had proposed a summons system before the Delaware Police Chief's Regional Council in the middle of 1975. This proposal was shelved, however, as the police feared that their budgets, supplemented to provide for warrant execution, would be negatively affected. Because of this, the MCC decided that efforts with regard to this component should be directed toward working with the Magistrate's Courts and the Delaware Police Chiefs Regional Council in order to encourage greater use of court summons in all Magistrate Courts in New Castle County.

Through a series of coordinative efforts by the MCC from December 1975 to March 1976, the courts and the police eventually agreed upon the need for the summons. Two problems were identified during this period which required resolution before implementation of the component could be realized. First, police felt it necessary that certain types of citizen-based complaints to magistrates should be forwarded to the police for investigation prior to summons issuance.

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<sup>14</sup> It should be noted, however, that New Castle's proximity to three other states (Pennsylvania, Maryland, and New Jersey) made warrant execution for minor out-of-state defendants impractical.

A list of crimes (characterized by bodily injury, use of dangerous instruments, sexual motivation, extensive property damage and semi-organized activities) was compiled and the police and courts agreed that summons would only be issued after a police investigation was completed.

Secondly, a problem regarding the reporting of a crime for which a summons was issued was raised by the MCC and brought to the attention of Delaware's Attorney General. The State Bureau of Identification, responsible for the collection of criminal history data, refused to accept information about offenses for which a formal arrest was not made. Since court summons eliminated arrests, criminal activity processed by summons would not be recorded on the state's criminal history files. The Magistrate's Courts perceived this to be detrimental to the criminal history data system which they had helped develop. The MCC was able to alleviate the court's concerns by assuring them that efforts would be made to have summons-treated complaint information centrally recorded in the state's criminal history repository.

The court summons component was implemented on July 1, 1976. Preceding implementation, the MCC provided magistrates and clerks with instructions regarding the use of summons. The procedures adopted were disseminated via an official memorandum of the Chief Judge of New Castle County's Magistrate's Courts. This memo clearly described the steps that were to be followed by the courts, emphasizing the procedures to be followed for: setting arraignment dates; insuring that police investigate certain offenses; and eliminating fingerprinting and normal intake procedures. Of particular note was the decision that summons would be personally delivered by constables, funded by MPP, rather than by mail. It was suggested

that this decision was the result of an interpretation of existing court rules which clearly implied personal service as the preferable execution method for summons.

An accurate assessment of court summons' usage in the three Magistrate's Courts dealing with criminal misdemeanors in New Castle County is difficult. The MCC and local evaluator, assuming that the case screening activities would be attending to all misdemeanor cases, relied on case screeners to record summons data. Confusion and breakdowns in the implementation of the case screening component in the Magistrate's Courts precluded the collection of complete summons data, because many misdemeanor cases were never screened. However, even this incomplete data, subject to biases because of the incomplete screening, suggest that court summons were not extensively used. Table II, which presents data recorded by the case screeners, indicates that 155 summons were issued over the eight-month period (July 1976 through February 1977), an average of about 20 summons per month. The data indicate that, at least for those cases examined by the screeners, 29 percent of all citizen-based complaints resulted in summons rather than warrants.<sup>15</sup> There is reason to believe, however, that this proportion has been biased upwards. Interviews with three different magistrates revealed that summons were not being used frequently, perhaps in less than 20 percent of applicable cases. Further checks with the case screeners also reinforced the idea of an upward bias because some courts, clerks and judges confused the summons and case screening components and were initially forwarding only summons complaints to the case screeners for review. This fact is reflected in the July-August data which reveals many summons and few warrants. Based on data from case screeners, estimates of the magistrates and

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<sup>15</sup> Approximately 25 percent of the eligible misdemeanor cases were screened.

TABLE II

COURT SUMMONS DATA  
NEW CASTLE COUNTY MAGISTRATE'S COURTS

1976	CITIZEN-BASED MISDEMEANOR COMPLAINTS PROCESSED BY SCREENERS	METHOD CHARGE WAS SERVED		
		WARRANT	COURT SUMMONS	
JULY	53	19	35	64%
AUGUST	59	26	33	56%
SEPTEMBER	106	83	23	22%
OCTOBER	75	58	17	23%
NOVEMBER	86	68	18	21%
DECEMBER	46	34	12	26%
JANUARY	60	54	6	10%
FEBRUARY	58	46	12	21%
TOTAL	543 (100%)	388 (71%)	155	(29%)

the local evaluator, it seems likely that summons have been used for less than 20 percent of all citizen-based misdemeanor complaints in the county (excluding the City of Wilmington). This level of use and the fact that (MPP funded) constables are used to execute court summons would therefore suggest that the Magistrate's Courts realized minimal, if any, cost savings.

Discussions with the magistrates have provided some indications as to the reasons for the failure of the summons to gain substantial acceptance. The police department's predisposition toward arrest has been most frequently mentioned as constraining the use of court summons. Arrest, even for minor crimes, is seen as important to developing leads and establishing criminal profiles. For instance, the passing of bad checks, though often a minor offense where a summons might be appropriate, was viewed by local police as an offense for which a warrant should be issued in order to establish profile information on individuals who may be habitual offenders. Police therefore often pressure magistrates to utilize warrants in cases where summons might be employed. Because of this it has been suggested that establishing a central court for the intake of misdemeanors, providing screening services at the warrant request stage of processing and maintaining centralized files might pave the way for increased summons usage.

Using a constable to deliver summons rather than issue by mail also may have been detrimental to the wide acceptance of summons. Magistrates have indicated that they were interested in exploring the possibility of mailing summons to increase the cost-savings attractiveness of the concept. Despite this interest, it is not clear that the significant changes needed to increase their use will or can occur in New Castle County.

## 6.0 CASE SCREENING

### 6.1 Component Development

The case screening component represented the largest outlay of MPP program funds in the DARC grant application--over 30 percent of the program's total allocation. The grant plans indicated that the most efficient expenditure of case screening funds would be gained by funding a number of positions (including 2 Deputy Attorneys General) to conduct formal screening (heretofore non-existent) in the Magistrate's Courts, and the Wilmington Municipal and Common Pleas Courts of New Castle County. Additionally, since formal prosecution of misdemeanors by the state was rare in the Magistrate's Courts, plans for the screening component at this level recommended that the screener, a Deputy Attorney General (DAG), assist in the prosecution of serious cases identified during case screening review. The provision of additional prosecutorial personnel offered in the plans for this component was therefore instrumental in assuring the cooperation of the Attorney General's Office and in the development and approval of specific component plans by the MCC.

Component development by the MCC and his staff assistant (also a former DAG) developed on two fronts. Initial case screening plans for the Magistrate's and Common Pleas (CCP) Courts were developed in conjunction with the State Prosecutor in the Attorney General's Office. Plans for the Wilmington Municipal Court were developed with the Wilmington City Solicitor. Plans presented for both aspects of the component were worked out in detail during the early months of 1976 after a number of consultations with participants in the various court systems which would be involved with component implementation.

Plans for the Magistrate's and CCP screening activities were agreed upon in principle by the Chief Judge of the Magistrate's Courts and CCP personnel and were formalized and presented to the State Prosecutor



in April 1976. This task was facilitated by the fact the the MCC and his assistant, as former state prosecutors, were able to clearly recommend how screening could be instituted within the existing administrative structure of the courts. The plans, which were agreed to and eventually implemented in the Magistrate's Courts, funded and assigned a staff of three people (a DAG, a paralegal and an administrative assistant) to serve the three Magistrate's Courts which processed only non-traffic misdemeanor offenses. This staff was charged with screening and reviewing all misdemeanor offenses, determining if charges were valid, and, in the event that they were not, dismissing the charge via nolle prosequi ("nolle" hereafter). Furthermore, if it was determined that a charge was deserving of special attention, the DAG screener could formally prosecute the case before the magistrate. For cases determined to be valid, the screening was to involve preparing case information, contacting witnesses for trial, amplifying police reports and generally assuring cases were prepared for effective prosecution--activities informally and often haphazardly attended to in the past by the clerical personnel of the courts. Conversely, cases now nolle before trial would be followed up to the extent that the screening staff would advise complainants of the meritless nature of the charges.<sup>16</sup> As designed under MPP, case screening was to be accomplished after misdemeanor cases were arraigned in Magistrate's Courts; thus the screening unit would not deal with cases disposed of at that time by pleas of guilty.

Procedures established by the MPP for case screening at the CCP level were also approved by the State Prosecutor. MPP funded two positions (one DAG and a paralegal) to staff a screening unit in the CCP serving New Castle County. This staff was charged with conducting

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<sup>16</sup> Since cases were typically not previously prosecuted by DAG, cases were not subject to nolle prosequi prior to MPP.

screening activities for misdemeanors to be heard in CCP (original jurisdiction) and cases transferred there from the Magistrate's Courts (for trial by a lawyer-judge). This screening unit was charged with the same merit-finding and case preparation duties as the Magistrate's Courts unit. As state prosecution was regularly provided to CCP cases, there was no need for the CCP screeners to prosecute cases. However, the CCP screening unit was also charged with screening misdemeanor cases appealed from Magistrate's Court to the Superior Court and those transferred from CCP to Superior Court upon the election of a jury trial. In these cases the DAG screener, at the State Prosecutor's request, would prosecute these cases. Specific guidelines for screening decisions at both the Magistrate's and CCP courts were not detailed in the procedures developed by the MPP staff, with the intention that they would be established between screeners and the judiciary during implementation.

Screening plans for the Wilmington Municipal Court agreed upon by the MCC and the City Solicitor involved the hiring of one paralegal to assist in formalizing the City's existing screening process. The paralegal was responsible for reviewing all misdemeanor charges after arraignment in the Municipal Court and assisting in the preparation of cases for assistant city solicitors. These duties involved coordinating witnesses, obtaining additional information from police, and assisting in the determination of probable cause so that the solicitors, if warranted, could nolle prosequi cases.

## 6.2 Magistrate Court and CCP Screening - Implementation and Assessment

Implementation activities associated with the establishment of case screening procedures at the Magistrate's Courts and CCP proved extremely troublesome for the MPP staff. Screening in these courts was officially implemented in June 1976, after a series of coordinated efforts between the MCC, his staff assistant, and court personnel

to establish clear administrative procedures for screening cases. A newly appointed State Prosecutor and difficulties in the timely hiring of staff, however, prevented screening activities from beginning in earnest until late July. By August, monitoring activities by the MCC staff assistant and local evaluator and complaints by court personnel and screening staff revealed that gross misconceptions about the screening component existed especially with screening performed for the Magistrate's Courts.

Investigation by the MCC's staff assistant revealed that the Magistrate's Courts, both judges and clerks, were confused about the screening component to the extent they perceived the procedures developed by the MPP to deal solely with citizen-based charges for which summons had been issued. Thus, only court summons' charges were being forwarded for screening. Court personnel felt they were not informed adequately about the case screening procedures and attributed the difficulties encountered to the new paperwork and administrative requirements being imposed on an already overworked case processing system. Additionally, CCP personnel maintained that court scheduling between the magistrates (who set CCP arraignments) and the CCP was not coordinated to allow adequate time for case screening.

These difficulties necessitated a major remedial effort, conducted primarily by the MCC's staff assistant, during August 1976. Contacts with the Chief Judges of the Magistrate's Courts and CCP, clerical personnel and individual judges, as well as the case screeners, were made to develop and provide specific instructions regarding screening procedures and to clarify the goals of the component. Screening activities continued in September, 1976, after the procedures were thought to be sufficiently understood. However, despite these efforts, confusion, misunderstanding and resentment of the extra work imposed by component activities persisted, undermining the efficient operation

of screening activities--particularly in the Magistrate's Courts. On the other hand, the screening effort at the CCP stabilized, once arraignment scheduling problems were resolved.

Assessment of screening activities at the Magistrate's Courts and CCP is complicated by the difficulties that occurred with implementation and operations noted above. Nonetheless efforts were made first to determine the extent to which misdemeanor cases were actually screened, and then for those cases screened, to assess the impact of the screening activities on the dropping of charges (*nolle prosequi*) and on the dispositions of cases forwarded to trial.

To assess the proportion of eligible cases screened by the Magistrate's Courts and CCP, two months of court data were collected (October 1976 and March 1977 for the Magistrate's Courts and December 1976 and March 1977 for CCP). Table III presents data for the Magistrate's Courts. Not surprisingly given the difficulties besetting the implementation of screening for these courts, these data indicate that the case screeners only reviewed 24 percent of cases eligible to be screened. Interestingly, the data in this table also suggest that the potential significance of case screening, as designed in Wilmington, is reduced by the large proportion of charges disposed by guilty pleas at arraignment prior to screening (45 percent).

Despite the low coverage of cases (which was even lower in March than in October) achieved by case screeners in the Magistrate's Courts, an assessment based on changes in frequency and rationales for *nolle prosequi*'s and in case dispositions, was conducted. Case screening activities and case outcomes during the period September 1976 through March 1977 were compared to baseline data similarly compiled for three randomly selected months (August, December 1975 and January 1976) when formal screening was non-existent. Table IV indicates the



TABLE III

EXTENT OF SCREENING COVERAGE FOR MAGISTRATE COURT CASES  
(OCTOBER 1976 AND MARCH 1977)

	CASES CHARGED TO BE HEARD IN MAGISTRATE'S COURT	DISPOSED AT ARRAIGNMENT <sup>1</sup>	CASES ELIGIBLE FOR SCREENING	CASES SCREENED	PERCENT OF ELIGIBLE CASES SCREENED
OCTOBER 1976	330	141 (43%)	189 (57%)	74	39%
MARCH 1977	523	246 (47%)	277 (53%)	38	14%
TOTAL	853	387 (45%)	466 (55%)	112	24%

<sup>1</sup>NOT ELIGIBLE FOR SCREENING.

TABLE IV  
CASE SCREENING RESULTS  
MAGISTRATE'S COURTS  
SEPTEMBER 1976 - MARCH 1977

BASELINE PERIOD

MONTH	CASES (N=900)		DISPOSITIONS (N=872)		
	NUMBER OF CASES PROSECUTED	NUMBER OF CASES NOLLE PROSEQUIED	GUILTY	NOT GUILTY	DISMISSED
AUGUST 75	281	22	167	41	81
DECEMBER 75	312	6	224	18	70
JANUARY 76	271	8	189	18	64
TOTAL NUMBER OF CASES	864 (96%)	36 (4.0%)	580 (66.5%)	77 (8.8%)	215 (24.7%)

MPP CASE SCREENING PERIOD<sup>1</sup>

MONTH	CASES (N=399)		DISPOSITIONS (N=248)		
	NUMBER OF CASES PROSECUTED	NUMBER OF CASES NOLLE PROSEQUIED	GUILTY	NOT GUILTY	DISMISSED
SEPTEMBER 76	83	13	40	3	11
OCTOBER 76	59	15	24	3	16
NOVEMBER 76	51	22	26	4	9
DECEMBER 76	30	15	12	5	7
JANUARY 77	30	7	10	3	16
FEBURARY 77	32	4	16	5	10
MARCH 77	34	4	12	2	14
TOTAL NUMBER OF CASES	319 (79.9%)	80 (20.1%)	140 (56.4%)	25 (10.1%)	83 (33.5%)

<sup>1</sup> THIS DATA REFERS ONLY TO SCREENED CASES

results of this comparison. Since prosecutors had rarely been in cases at the Magistrate's Courts prior to MPP, it is not surprising to see that there was a 16 percent increase (from 4 percent to 20 percent) in the proportion of cases nolle'd as a result of case screening activities. However, there is no evidence that the weeding out of meritless cases and increased prosecutorial attention resulted in more successful prosecution of cases. Compared to cases from the three-month baseline period (during which there was no screening) cases screened were: less likely to be judged guilty (66.5 percent in baseline vs. 56.4 percent in case screening); slightly more apt to be judged not guilty (8.8 percent in baseline vs. 10.1 percent in case screening); and more frequently dismissed by the court (24.7 percent in baseline vs. 33.5 percent in case screening). For the 80 cases nolle'd by the case screening unit 60 percent were the result of three factors: (1) insufficient evidence to proceed with the charges (34 percent); (2) complainant dropped charges (14 percent); and, (3) complainant did not respond to the court (and the screeners') contacts (13 percent). Reasons for dismissal of cases by the judges (the 83 cases in Table IV) were less clear. Available data, however, suggest that cases were commonly dropped because of the non-appearance of the complainant or because the testimony given before the judge differed substantially from the description of events made in the original charge.

The case screening unit assigned to the Magistrate's Courts was also expected to improve the prosecution of difficult or more serious charges by having a state prosecutor (DAG) appear for the complainant in court. Data was therefore collected to allow a comparison of case dispositions (i.e., guilty, not guilty, or dismissed) in which the DAG prosecuted the case before a magistrate and cases where no state prosecutorial representation was provided. This data, presented in Table V, indicates that case dispositions for cases prosecuted in each manner (with or without formal prosecutorial representation) does not



TABLE V

MAGISTRATE'S COURTS CASES-DISPOSITIONS  
WITH AND WITHOUT STATE PROSECUTOR APPEARANCE

	CASES SCREENED AND DISPOSED IN MAGISTRATE'S COURTS	PROSECUTOR APPEARS BEFORE MAGISTRATE	PROSECUTOR DOES NOT APPEAR BEFORE MAGISTRATE
GUILTY	140/56%	74/57%	66/55%
NOT GUILTY	25/10%	10/8%	15/13%
DISMISSED	83/33%	45/35%	38/32%
TOTAL	248 (100%)	129 (100%)	119 (100%)



appear to be significantly different. For the months (September 1976 through March 1977) cases prosecuted by the DAG screener and disposed before magistrates were almost equally likely to be found guilty (57 percent vs. 55 percent); not guilty (8 percent vs. 13 percent); and, were dismissed in approximately the same proportion (35 percent vs. 32 percent) as cases where the DAG did not appear. The value of the prosecutorial aspect of the Magistrate's screening unit, however, is unclear insofar as the cases with a prosecutor may have been more difficult cases, as originally planned.

Interviews with the Magistrate's Courts screeners (the DAG, paralegal, and administrative assistant) and with magistrates affirmed the fact that the implementation of case screening at this level was seriously undermined by administrative and coordinative problems. An absence of specific formal guidelines to assure consistency in the screening of cases, and the inability to establish a procedure whereby all cases would be screened resulted in numerous difficulties during component operations. Most important, however, may have been the prevailing judicial philosophy in the Magistrate's Courts. Because these courts reflect a "neighborhood" concept and had remained practically free of formal state prosecutorial attention, their operations have tended to take on the "social-arbiter dispute settling" role model of the judiciary. It was suggested that this philosophy encourages an anti-screening attitude; that is, defendants and complainants are encouraged to have "their day" before the magistrate, and the courts emphasis is on responsiveness, rather than on other aspects of the judicial function. Clearly, this attitude was not conducive to successful component implementation, since the improved effectiveness sought by case screening was not necessarily a goal of the "neighborhood" philosophy which tended to encourage magisterial decision-making and to discourage the presence of legal representatives for either the prosecution or the defense.

Implementation and operation of case screening in the CCP appears to have been somewhat more successful than in the Magistrate's Courts. Because screeners at this level were dealing with one court (as opposed to three Magistrate's Courts), administrative impediments posed a less serious problem. In fact, the principal difficulties in establishing procedures for CCP involved: (1) the coordination required with the Magistrate's Courts to make sure that scheduling of CCP arraignments allowed sufficient time to accomplish screening, and (2) the assignment of a DAG capable of successfully coordinating screening efforts. These difficulties delayed the full implementation of screening until December 1976. However, information collected regarding CCP screening activities from December 1976 to April 1977 indicate a more effective effort, especially when compared to that of the Magistrate's Courts.

Data regarding the extent of screening coverage for CCP cases, also based on a two-month sample (December 1976 and March 1977), are presented in Table VI. The data show that 66 percent (247 of 376) of all eligible cases (non-traffic misdemeanors) were screened--a significant proportion in light of the problems faced earlier on in implementing CCP screening activities. Data regarding case screening activities and case dispositions in CCP for the five-month period, December 1976 through April 1977, were collected and compared to data from an eight-month baseline period during which no screening was conducted. Presented in Table VII, this data suggests that screening may have affected the quality of dispositions. CCP screeners nolle 56.4 percent of all cases screened (325 of 576 cases), an increase of about 15 percent (56.4 percent vs. 41.7 percent) over the baseline period. In fact, CCP screeners nolle more cases in the five months of MPP screening operations (325) than in the eight months of the baseline period (257). More importantly, prior to MPP, cases which would rarely be nolle before trial were now subject to nolle

TABLE VI  
EXTENT OF SCREENING COVERAGE  
FOR CCP CASES  
(DECEMBER 1976 AND MARCH 1977)

	NUMBER OF CASES CHARGED <sup>1</sup>	SCREENED	PERCENT SCREENED
DECEMBER 1976	201	121	60%
MARCH 1977	175	126	72%
TOTAL	376	247	66%

<sup>1</sup>ALL CASES ARE ELIGIBLE AS SCREENING FOR CCP CASES OCCURS PRIOR TO CCP ARRAIGNMENT.

TABLE VII  
CASE SCREENING RESULTS  
CCP COURT  
DECEMBER 1976 -- APRIL 1977

BASELINE PERIOD

CASES (N=616)			DISPOSITIONS (N=359)		
MONTH <sup>1</sup>	NUMBER OF CASES PROSECUTED	NUMBER OF CASES NOLLE PROSECUTED	GUILTY	NOT GUILTY	DISMISSED
OCTOBER 75	71	45	39	8	23
NOVEMBER 75	55	38	30	5	20
DECEMBER 75	42	28	27	4	11
JANUARY 76	22	27	11	3	8
FEBRUARY 76	25	20	16	2	7
MARCH 76	58	33	36	4	18
JULY 76	55	44	40	12	4
AUGUST 76	31	22	16	10	5
TOTAL NUMBER OF CASES	359 (58.3%)	257 (41.7%)	215 (59.9%)	48 (13.4%)	96 (26.7%)

MPP CASE SCREENING PERIOD

CASES (N=576)			DISPOSITIONS (N=251)		
MONTH	NUMBER OF CASES PROSECUTED	NUMBER OF CASES NOLLE PROSECUTED	GUILTY	NOT GUILTY	DISMISSED
DECEMBER 76	53	68	23	10	20
JANUARY 76	44	42	27	7	10
FEBRUARY 77	58	60	44	3	11
MARCH 77	43	83	34	3	6
APRIL 77	53	72	43	2	8
TOTAL NUMBER OF CASES	251 (43.6%)	325 (56.4%)	171 (68.1%)	25 (10.0%)	55 (21.9%)

<sup>1</sup> BECAUSE DATA FROM APRIL-JUNE 1976 WAS TEMPORARILY UNAVAILABLE, DATA WAS COLLECTED FOR JULY AND AUGUST, 1976.

proceedings far enough in advance to allow notification of case participants, thus preventing the wasting of court and citizen time.<sup>17</sup>

The activities of the CCP case screeners also seem to have had some impact on the disposition of screened cases proceeding to trial. Table VII indicates that compared to the baseline period, dispositions for cases screened during the MPP period were characterized by an increase in the percentage of guilty dispositions (68.1 percent vs. 59.9 percent), a decrease in the percentage of dismissals (21.9 percent vs. 26.7 percent); and a decrease in the percentage of not guilty dispositions (10.0 percent vs. 13.4 percent). This data suggests the CCP screening unit has been successful in weeding out meritless cases and directing case preparation activities to cases with the greater promise of successful prosecution.

Data collected regarding the reasons for nolle charges by the DAG screener in Table VIII seem to support this conclusion. The most common reasons for the nolle prosequi of CCP charges were the lack of sufficient evidence (28 percent), dropped charges resulting from a plea bargain situation (23 percent, Attorney General's probation (pre-trial diversion) (13 percent), and, referral for civil action--rationales consistent with the allocation of prosecutorial resources to more serious and legally sufficient cases. Finally, only 8 of the 55 charges dismissed by the judge (see Table VII) were the result of legal insufficiency, again indicating the apparent stringency of the CCP screening effort.

Based on the above data, the screening at CCP clearly exceeded the Magistrate's Courts screening effort. Despite the successful

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<sup>17</sup> Prior to MPP, cases typically were first reviewed by an assigned DAG on the day of CCP arraignment.

TABLE VIII  
RATIONALES FOR NOLLE PROSEQUI  
BY CCP SCREENING UNIT

REASON FOR NOLLE	NUMBER	PERCENT
COMPLAINANT DID NOT RESPOND	30	9
CHARGES DROPPED BY COMPLAINANT	23	7
ATTORNEY GENERAL'S PROBATION (PRETRIAL DIVERSION)	43	13
INSUFFICIENT EVIDENCE	91	28
ORIGINAL CHARGES UPGRADED	14	4
NOLLE AS A RESULT OF PLEA BARGAIN	75	23
REFERRED FOR CIVIL ACTION	42	13
OTHER	7	2
TOTAL	325	99%



results, however, it appeared unlikely as the MPP neared its end that CPP screening activities would continue. Insufficient state funds, a low priority afforded the need for screening misdemeanors, and the absence of an advocate to argue the evaluation data to appropriate decision-makers, seemed to be the critical factors impeding continuation of this aspect of the case screening component.

### 6.3 Municipal Court - Implementation and Assessment

Case screening development efforts at the Wilmington Municipal Court were rather simplistic compared to those at the CCP and Magistrate's Courts. Implementation activities consisted of: staffing a paralegal position in the Solicitor's Office (May 1976); training the paralegal regarding screening procedures; and instructing city solicitor personnel in the proper collection of data for the local evaluation. While screening activities commenced in August 1976, data collection began in October to allow adjustments in data recording and administrative procedures to be made.

Data regarding case screening conducted at the City Solicitor's Office are presented in Table IX. Unlike the Magistrate's and CCP Courts, the Municipal Court screener indicated that all eligible misdemeanor cases (except not guilty pleas at arraignment) were screened. Nolle prosequi and case disposition data for a six-month period (October 1976 through March 1977) in which formal screening was provided by a paralegal is compared to a three-month (August, December 1975 and January 1976) baseline period. Based on the data in Table IX little change appears to have occurred as a result of the paralegal's case screening activities. Not only was the rate of nolle prosequi approximately the same (27.7 percent in case screening vs. 29.9 percent baseline), but case disposition for cases forwarded for prosecution in Municipal Court appear not to have improved as expected. Cases screened and forwarded for prosecution during MPP were found

TABLE IX  
CASE SCREENING RESULTS  
MUNICIPAL COURT  
OCTOBER 1976 - MARCH 1977

BASELINE PERIOD

CASES (N=1019)			DISPOSITIONS (N=714)		
MONTH	NUMBER OF CASES PROSECUTED	NUMBER OF CASES NOLLE PROSECUTED	GUILTY	NOT GUILTY	DISMISSED
AUGUST 75	294	93	158	4	132
DECEMBER 75	271	154	190	5	76
JANUARY 75	149	58	96	-	53
TOTAL NUMBER OF CASES	714 (70.1%)	305 (29.9%)	444 (62.2%)	9 (1.3%)	261 (36.5%)

MPP CASE SCREENING PERIOD

CASES (N=1478)			DISPOSITIONS (N=1065)		
MONTH	NUMBER OF CASES PROSECUTED	NUMBER OF CASES NOLLE PROSECUTED	GUILTY	NOT GUILTY	DISMISSED
OCTOBER 76	249	83	147	41	61
NOVEMBER 76	200	73	126	22	52
DECEMBER 76	136	52	86	11	39
JANUARY 77	151	42	81	11	57
FEBRUARY 77	144	62	81	7	54
MARCH 77	189	95	126	2	61
TOTAL NUMBER OF CASES	1069 (72.3%)	409 (27.7%)	647 (60.8%)	94 (8.8%)	324 (31.4%)

guilty in nearly the same proportion (60.8 percent in case screening vs. 62.2 percent in baseline), but were more likely to be found not guilty (8.8 percent vs. 1.3 percent) than cases in the three-month baseline period.

Data regarding the reasons for nolle prosequi by city solicitors and court dismissals by the Municipal Court Judges is presented in Table X. This data suggests what appears to be a relatively active screening effort, with over 50 percent of the nolle cases the result of insufficient evidence (26.8 percent) or plea bargaining (24 percent). However, reasons for case dismissal of charges for screened cases proceeding to court raises questions about the quality of the screening effort and its ability, as executed, to assist in case preparation and the determination of the sufficiency of cases. In fact, Table X indicates that next to the non-appearance of the complainant or police officer (47.2 percent), insufficient evidence was the most frequent reason cited by judges (25.7 percent) for the dismissal of screened cases.

Although the available data suggest little change as a result of Municipal Court screening for misdemeanors there were two exceptions noted during interviews with the members of the Municipal Court Judiciary and personnel associated with the screening effort there. First, the judges and city solicitors consistently reported better and more accurate case preparation as a result of the paralegal's efforts. Secondly, the City Solicitor's Office (as a result of the paralegal position) was able to notify defendants, complainants, and witnesses in advance of nolle prosequi proceedings thus precluding unnecessary waste of time and resources. Despite these benefits, however, formal case screening efforts will not continue after MPP termination.

TABLE X

NOLLE PROSEQUI AND COURT DISMISSALS FOR CASES  
SCREENED AT WILMINGTON MUNICIPAL COURT  
(OCTOBER 1976 - MARCH 1977)

REASONS FOR NOLLE PROSEQUI		
	NUMBER	PERCENT
COMPLAINANT DOES NOT RESPOND	80	19.6
CHARGES DROPPED BY COMPLAINANT	22	5.4
INSUFFICIENT EVIDENCE	110	26.8
UPGRADING OF CHARGES	5	1.2
PLEA BARGAINING	98	24.0
OTHER	<u>94</u>	<u>23.0</u>
TOTAL	409	100.0
REASONS FOR COURT DISMISSALS		
NON-APPEARANCE OF COMPLAINANT OR POLICE OFFICER	153	47.2
INSUFFICIENT EVIDENCE	84	25.7
COMPLAINANT CHANGES TESTIMONY	2	.9
PRETRIAL INTERVENTION	10	3.1
OTHER	<u>75</u>	<u>23.1</u>
TOTAL	324	100.0

In summary, implementation and operations of the case screening component in New Castle County, with the important exception of the efforts at CCP, have had little significant positive effect. Assignment of prosecutorial resources and development of screening procedures at the Magistrate's Court level, especially, was ill-conceived given the traditional neighborhood role of these courts. Even when activities began, a defined case screening philosophy and procedural guidelines for screening decisions were lacking in sufficient detail to provide participants with a clear-cut concept of their role. In fact during interviews with the judges and court and screening personnel of all three courts, substantial doubt and confusion regarding the purpose of case screening surfaced. Notably, the most common comment among judges was that they conceived screening to be more appropriate at the warrant request stage of case processing than at the post-arraignment stage. For the Magistrate's Courts, personnel interviewed were unclear about the purpose of case screening, critical of the manner in which implementation occurred, and resentful of the "extra" data burden imposed on them.

Only in the CCP did screening appear to have been a substantially positive experience, and only in the CCP can case screening be said to have been implemented competently (the CCP benefitted from the inputs of a DAG screener and a court clerk, both of whom understood the goals of the component and showed consistent individual commitment to screening activities). Like the screening activities at the Magistrate's and Municipal Courts, the scarcity of local funds and the low priority afforded the need for misdemeanor screening has prevented refunding despite some indication of a successful effort.

## 7.0 PRETRIAL RELEASE AND PRESENTENCE INVESTIGATION

The development and implementation of the pretrial release (PTR) and the short-form presentence report (PSI) components were originally directed at the improvement of existing services provided to New Castle County Courts by the Department of Adult Corrections (DAC). According to original MPP grant plans, existing pretrial services were to be augmented by hiring two new probation officers to expand full coverage to the Magistrate's Courts in the county. It was thought that existing services to misdemeanants were deficient (lack of round-the-clock coverage); additionally defendants arrested in the county often had to be transported to the Delaware Correctional Center (40 miles away) for a release interview by DAC staff. The PSI component plans implied that a short-form report was being developed by DAC and that MPP funds would be used for its printing. Efforts to develop and implement these components via MPP funds revealed the hastily planned nature of the grant development process as the need for both concepts was not perceived by agency representatives and their commitment to them was therefore not substantial.

The plans for the pretrial release component in the MPP grant application presupposed that gaps in pretrial services meant that misdemeanants were routinely detained in lieu of bail. A survey was conducted by the MCC in order to determine the need for expanded pretrial services for misdemeanants. Information from the Magistrate's Courts in New Castle County was examined because these courts are where release decisions are made for all crimes charged in the county (outside of the City of Wilmington). Data for a three-month period, January through March 1976, indicated that about 90 percent of all misdemeanants charged were released either on recognizance (50.3 percent) or unsecured bonds (37.5 percent). For the remaining 10 percent, secured bond was set; the amount was typically low enough so that defendants were rarely detained because they could not post bond.

In fact for the three months studied, misdemeanor detainees averaged less than 10 per month. For the few misdemeanants detained, fewer than one a month was detained long enough to be given pretrial services routinely provided when a defendant is transported to the Delaware Correctional Center. Further examination of the data revealed that the usage of secured bail for misdemeanants appeared to be related to out-of-state defendants for whom release on recognizance was deemed inappropriate. With these findings the MCC concluded that the expenditure of MPP funds for additional pretrial coverage was unnecessary.

Initial efforts by the MCC to develop the PSI component found that the presentence units (provided by DAC) serving the lower courts in the county already used brief forms and that a new form was neither needed nor desired. Furthermore, the Court of Common Pleas, which had been without its own presentence officer prior to the MPP, had recently hired a presentence staff, thus obviating the need for MPP funding of an additional PSI position.

Because the MCC found that pretrial release and the PSI components were not justified as prescribed by the original grant, an attempt was made in April, 1977 to determine what could be done with the project funds allocated to achieve the broad objectives of these components. During the review of existing procedures by the MPP regarding each of these components, a need for obtaining rapid criminal history information for both PSI and pretrial services had surfaced. First, it was found that release decisions for misdemeanants were often made largely on the basis of unverified information. While criminal history data were available and verified for presentence investigations, it often took more than two weeks to obtain the needed information. Police departments have rapid access terminals which provide this information but the tactical nature of their operations apparently

precluded the use of these facilities by the courts. As a result only the more serious offenders were receiving PSI's; all other misdemeanants were sentenced by the judge without verified information.

To alleviate the above situation the Chief Judge of the Court of Common Pleas suggested to the MCC in March 1976 that the money originally allocated to implement the PTR and PSI components be used to rent two computer terminals to provide the courts with more rapid access to the state's repository for criminal history and arrest data. In a letter to the LEAA requesting the authority to amend the MPP grant to accommodate this change, the MCC explained that one of the terminals would be placed in the court complex in Wilmington Municipal Court. The other terminal would be placed at a centrally-located Magistrate's Court to serve all the Magistrate's Courts in the county. The request to the LEAA was approved by the end of May. There were many delays in obtaining these terminals and operational use of the equipment was not accomplished until January 1977.

Because of the late installation of the equipment, and an early departure of the MCC from the MPP program, little in the way of assessing the use of the computer terminals was accomplished. Data collected by the local evaluator regarding the acceptance of the terminals by potential users does, however, indicate substantial use, especially by presentence investigators and magistrates. This usage tends to substantiate the belief that the more convenient access provided by the new terminals has the potential to increase the usage of validated criminal history information for both pretrial and presentence investigations.



## 8.0 PROMIS

It was evident that concrete plans for the PROMIS component did not exist at the time of the MPP grant application. Accordingly, component development and implementation undertaken as a result of the grant reflected a basic confusion surrounding the nature of the PROMIS concept (and its particular applicability to New Castle County) and the lack of pre-grant coordination. Since the AG's Office provided prosecutorial services for all felonies and the majority of misdemeanors (outside of the City of Wilmington) throughout the state as well as New Castle County, the original plans for developing this component cited a need for a study, by the MCC, of the AG's entire case processing operation. Through this effort the applicability of the PROMIS concept to Delaware's needs was to be determined. Before this could be undertaken, however, the MCC was confronted with the problem of developing a basic understanding and interest among the AG's staff in the PROMIS concept.

As early as January, 1976 a series of meetings were held with members of the AG's Office staff to discuss PROMIS and plans for its implementation. It was discovered at this time that a substantial lack of knowledge precluded consensus regarding any detailed plans for implementation. Participants were not aware of the large scope of PROMIS' utilization and the potential ramifications it could have on case processing and prosecutorial decision-making. To clarify PROMIS to the AG's Office, the MCC requested a meeting with the Institute for Law and Social Research (INSLAW). As a result of this January 1976 meeting and a subsequent visit by the State Prosecutor to the Washington, D. C. PROMIS site, an increased understanding of the potential of PROMIS was achieved. In March 1976, the MCC delegated the major responsibility for developing and implementing PROMIS to his staff assistant; the latter then proceeded to treat the PROMIS



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**1 OF 2**

component not only as part of the ILCCH program, but as a likely producer of system-wide improvements, in terms of both felonies and misdemeanors. This was a departure from the initial program planning by DARC.

With increased understanding of the PROMIS concept, component plans became more focused. PROMIS began to be envisioned as a means to institute a major reorganization and revamping of the Criminal Division of the State Attorney General's Office (despite the fact that this division dealt almost exclusively with felony cases). The division was generally viewed as wanting in efficiency, with inadequate file security and formalized procedures for specific case processing functions. Thus, PROMIS was seen as providing a starting point to raise the sub-standard operations of this division to "industry standards" for a major state prosecution agency.

With the PROMIS concept clearer in mind, meetings with members of the AG's Office staff continued into April. During this time the procedures outlined in the PROMIS manual<sup>18</sup> were reviewed with the goal of deciding which aspects of the system were most applicable. In particular, while the original MPP grant budgeted \$12,000 for PROMIS "software," it was unclear what kind of specific activities should occur as a result of these funds. Clearly in evidence was the fact that assistance was still needed to develop the PROMIS concept into a plan for MPP implementation activities.

As a result of the relatively short time frame for the MPP, the decision was made to initiate preliminary activities prescribed by the Manual PROMIS Handbook. Principal among these activities was a

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<sup>18</sup> Institute for Law and Social Research, PROMIS Briefing Series, July, 1975.

study of the AG's Office with respect to case processing to determine case flows, paper flows, and specific individual staff responsibilities. Accordingly, the MCC's staff assistant was assigned this responsibility and the study commenced in late April. Furthermore it was decided that some funds allocated by the MPP to PROMIS would be spent to purchase contractual services to actually determine which aspects of PROMIS to implement. The management study to be prepared by the MCC's staff assistant would serve the contractor by providing sufficient information to begin planning specific PROMIS implementation activities.

During the period (May) in which an RFP was being prepared, an additional INSLAW visit was made. During this visit the future automation of PROMIS was discussed. INSLAW was able to assist in plotting a tentative course of action which would facilitate the future adaptation of the manual system to an automated system. As a result of this planning an RFP was let, specifying the need for the following:

"the study of the case flow operations in the criminal division, a critique of the procedures employed, creation of forms (in the PROMIS mold) to accommodate a streamlined system, development of a training program to educate the users of the contemplated system, and the development of job description manuals for rapid reference use by personnel and for utilization in instances of turnover among personnel. The foregoing is to be conceived so that it is compatible to an eventual conversion to a completely automated system."

The staff assistant's management study was completed in June. However, due to unsatisfactory responses to the RFP, a contractor was not selected until September 3, 1976.

The contractor, a consultant with the University of Delaware's School of Urban Affairs, began PROMIS development activities in November 1976. The selection of this contractor was particularly

fortunate since funds from the University's public service budget would be potentially available for the necessary PROMIS implementation and management assistance activities (which could not be covered by the limited MPP budget).

Utilizing the materials prepared by the MCC's staff assistant, the contractor conducted an intensive personnel survey to document, in detail, responsibilities for case processing in the AG's Office. During this process copies of all documents, logs, and data collection forms were collected and analyzed. This information served to support the contractor's major emphases which were in the following areas:

- duplication of work or inessential "make-work" activities;
- the degree of cross-training which existed among personnel regarding essential case processing activities;
- the extent to which the AG's staff understood the whole process to which they contributed; and
- gaps in case administration which appeared to cause delays and errors in processing.

The report of the contractor's assessment was presented to the State Prosecutor in December 1976 and essentially confirmed the fact that inefficient procedures prevailed. A major criticism of the office's case documentation procedures involved the inadequacy of the multi-card procedure which served to document cases as they progressed through various stages of processing. Other problem areas, including incomplete central files, poor record accountability, unarticulated procedures regarding clerical duties relating to case file and docket card entries, and poor planning concerning the content and utility of management reports, complicated a situation which was potentially serious if the office workload increase and available funding remain essentially unchanged (as anticipated).

To alleviate the reported situation, the AG's office, in January 1977, approved a series of proposals by the contractor for reorganization of the office. Modeled after the manual PROMIS forms, a "case progression" card concept was to be adopted to replace the existing multi-card system. Two cards, combining features of the existing system and PROMIS, were designed to be used much like a double-entry accounting system. One of the newly designed cards, a calendar card, would track a case as it progressed through the various stages in the office (i.e., grand jury, trial, etc.) and would be filed daily by date and event. The other card, based on the PROMIS case progression card concept, would be centrally filed and updated daily from the calendar cards as appropriate.

To accommodate these changes and to formalize office procedures, specific duties of clerical staff were to be documented so that cross-training on functions could be accomplished and efficient case processing could continue in the event of personnel turnover. Physical reorganization needs were also addressed. At the suggestion of the contractor, plans for realignment of desks, new file systems, record security and accountability were approved.

Finally, it was agreed that once the reorganization was accomplished the contractor would continue to assist, in conjunction with the AG's staff, in the review and development of necessary management reports. The new design and revised processing procedures for case tracking would allow reports to be designed and revised much more efficiently than in the past. However, implementation of the card tracking system would be of prime concern during the MPP funding period.

The new forms and procedures described above were printed and transition from the old to the new case processing system began. Implementation of the system was accomplished, a section at a time

(i.e., intake, grand jury, trial) and was completed in April 1977. There has been no attempt in the implementation effort to redocument cases processed under the old system. PROMIS documentation was used exclusively for newly indicted cases and old cases will be removed from the system by normal attrition over the next year (as cases are disposed).

As the MPP approached its end, PROMIS and associated developments in the AG's office continued. System refinement and technical assistance work remained to be done as well as contracting related to actual physical modifications to the AG's office space. Public service funds provided by the University of Delaware were being used to staff an office monitor position to provide day-to-day assistance regarding the operation of the newly installed case processing system. The State Prosecutor appears to be pleased with the progress of the system to date and expects that concurrent improvement efforts to systematize witness notification procedures, to redesign management reports, and eventually to automate case recordkeeping to complement the Comprehensive Data System will significantly assist the upgrading of the operations of the AG's Office.



## 9.0 SELECT OFFENDER PROBATION

The description of the select offender probation (SOP) component in the original MPP grant application admitted a basic confusion regarding the establishment of a misdemeanor probation unit within Delaware's Department of Adult Corrections (DAC) and its use as an alternative to incarceration. This uncertainty demonstrated the essentially poor input of information which preceded the development of the component concept. Despite this confusion, the hiring of two probation officers for the formation of a new misdemeanor probation unit within the existing probation staff of the DAC was proposed.

Initial analysis of the sentencing dispositions of misdemeanants by the MCC, revealed that probation was typically not used as an alternative to incarceration. In fact few misdemeanants were ever incarcerated. Thus, it became clear that any newly established probation unit for misdemeanants would necessarily emphasize the provision of more specialized or intensive services than those currently available. Existing probation caseloads at the DAC office in Wilmington placed misdemeanants and felons under the supervision of the same probation officers. Existing caseloads were on the order of 100-125 offenders per officer. As a result, misdemeanants often received minimal supervision as felons were allocated the substantial portion of probation officers' time.

By February 1976, the MCC had decided that the SOP component should establish a new unit to provide for separate supervision of misdemeanor offenders. The SOP unit would provide more intensive and individualized supervision to misdemeanants than had been possible with the existing mixed caseloads. Efforts would be directed at increasing client/officer contact, and coordinating local community resources to meet individual client needs. To provide these services, two probation officers and a probation supervisor would be

hired to provide supervision of misdemeanor offenders. These three positions would be supplemented by two additional officers to be provided from the existing DAC staff in order to form the new unit.

Attempts by the MCC to coordinate the implementation of the SOP component with DAC proved extremely difficult. From the inception of MPP, DAC had been reluctant to participate in the program. The Director of Community Services, responsible for all state probation activities, did not see a need for the SOP component and resisted it. He cited a previous Federal project to fund an "intensive supervision" unit as a failure that caused more administrative "hassles" than it was worth. Further, the priorities and needs of DAC went in the direction of more supervisory and general caseload officers rather than the SOP concept; yet these priorities and needs were seen to be unfulfilled given the special conditions of the ILCCH program.

In addition to the more basic opposition noted above, practical problems also worked against successful implementation of the SOP component. DAC did not want to hire personnel to operate the SOP activities; there was some reluctance to hire counselors for a short-term Federal program under the state merit system because it would provide these employees with "bumping rights" over employees hired later to fill permanent slots. This position was further solidified because: (1) given Delaware's past experience with LEAA funding, DAC did not anticipate the continuation of MPP activities by the state after Federal funds had ended, and (2) also a hiring freeze existed for the state government.

The MCC, faced with this opposition, had to reach a compromise in order to implement the SOP component, and did so, obtaining DAC agreement to minimum participation with SOP by assuring that the short-form PSI and pretrial release components would not involve

hiring personnel, but rather would fund the two additional computer terminals. To overcome DAC objections to hiring staff for the component, the MCC arranged for the two new probation officers to be hired through the Administrative Office of the Courts. The officers then would be loaned to the DAC for the duration of the MPP. Also the plans for a probation supervisor position in the original grant were dropped to provide funds sufficient to allow the rental of the computer terminals for the pretrial release and PSI components.

Two probation officers were hired in July 1976 for a 11-month period. After receiving a series of training briefings from the DAC, the P.O.'s began working with 60 misdemeanor clients routinely assigned by DAC from existing caseloads, with the intent that smaller caseloads (30 clients per officer) would result in more intensive and directed supervision.

SOP component operations during the period August 1976 and May 1977 were beset with a series of problems, a result primarily of DAC's unwillingness or inability to accept responsibility for the direction of the component, and the MCC's poor staffing and inadequate supervision of the probation officers' activities. Screening criteria for the selection of SOP candidates were never formalized; the officers' activities, despite early indications of ineffectiveness, were not closely supervised; and, a clear conception of what the component was to do was never fully determined. Only when the local evaluator (himself a one-time social worker) began working with the officers to establish data collection procedures was any semblance of component organization established. By that time, little could be done to revitalize the component as the end of MPP was too close to muster enthusiasm. One officer was, however, dismissed in March as a result of "serious indiscretions" with a client regarding information provided during counseling.

Interviews with the probation officers and DAC officials, as well as the data collected by the local evaluator indicate that although the component, in theory, was to provide intensive supervision, SOP officers did not in reality provide services much different from regular supervision. In fact, given the personnel problems and lack of supervision surrounding this component's operation, it is not unlikely that fewer services were in fact provided. Data were collected by the local evaluator for both the SOP clients and a comparison group composed of probationers who would be eligible for SOP if more counselors were available. In light of the findings of the evaluator, however, this data does not reflect the effects of any defined program or identifiable change in supervision practice and thus is meaningless in terms of assessment. The absence of any identifiable selection criteria for SOP participants further negated any attempt to assess this component.

Given the difficulties involved in this component's implementation and operations, its failure to meet agency needs, and the resultant inability to demonstrate the SOP concept, it is not surprising that the continuation of SOP activities was never considered. In fact DAC officials (perhaps biased in their remarks, however) have indicated a "negative impact" as a result of the MPP's SOP activities.

## 10.0 PROGRAM STRUCTURE AND THE MASS CASE COORDINATOR

The structure of the ILCCH program in Wilmington was particularly reflective of the inadequacies of the planning that characterized its early development. Especially significant during this period was the failure of DARC planners to obtain a sufficient level of interest and cooperation among the criminal justice community to provide the MCC with a clear conception of the applicability of each of the ILCCH components to New Castle County. Further hampered by the failure of the steering committee to provide direction to the program, the Mass Case Coordinator function had to be expanded significantly beyond that of the planned coordinative role to include major responsibilities for component design and administration, and development and maintenance of a sufficient level of interest in the program by agency participants and component staff. In this effort, the MCC and his staff provided what little structure existed in the program.

The difficulties encountered by the MCC during the course of the MPP's grant development and start-up phases were prophetic of an ILCCH environment built on inadequate preparation and low interest. The steering committee's lack of real input into developing the grant, agencies' lack of interest program components, and the unacceptability of the MCC/consultant format all contributed to delays in implementing the ILCCH components. This resulted in a program structure characterized by fragmented or stymied component development, and minimal cooperation between agencies.

Particularly important was the failure of DARC to generate enough interest in the program during the grant development process. The lack of enthusiasm and lack of direction of the steering committee convened by DARC left the MCC with no base from which to coordinate operations and with a program which had yet to be clearly defined. The placement of the MCC within the Administrative Office of the

Courts served to stabilize the MCC position, but did little to replace the void in program direction and component development.

Definition of the MPP program was also problematic. While the grant application assumed a basic need for the ILCCH components and the suitability of Wilmington for implementation, the MCC quickly discovered otherwise when trying to define and implement specific components. The state's police agencies had not been consulted about the police citation component and were not enthusiastic. Correction representatives showed disinterest, if not hostility in the preliminary plans for pretrial release, presentence investigation, and selected offender probation. In point of fact, the pretrial release component was not needed; an acceptable PSI report currently existed; and SOP did not constitute a real alternative to incarceration since misdemeanants were seldom incarcerated. Almost the only real interest in the project was shown by the Attorney General's Office which would gain two additional prosecutors as a result of the case screening component. The potential of the PROMIS component was poorly understood; and basically it was viewed as a condition to obtaining additional prosecutorial staff for case screening.

Faced with these problems and provided with no base for program direction (such as a coordinating committee with a strong constituency among criminal justice agencies), it was necessary for the MCC and his staff assistant to personally develop component plans with the various criminal justice agencies. Coordination between agencies, an integral part of the ILCCH concept, became secondary to selling component concepts, "in some fashion," to individual agencies. The system-wide basis of the ILCCH program which emphasized coordinated solutions to case processing difficulties was therefore secondary to problems involving hiring personnel, instructing agency personnel in MPP component procedures, and ensuring component implementation and

operations. Thus, with the exception of PROMIS, which required little attention after the consultant/contractor was hired, the focus of the program was the MCC--as a component planner, "salesman," implementor, and director. The components funded by MPP operated for the most part independently without strong agency support and direction even after implementation. Two components, case screening and SOP, never gained the kind of agency acceptance and procedural integration required to provide a demonstration of their potential effectiveness. Police citations were optional to police departments and basically never achieved strong agency support, especially from the police agencies most capable of eliciting statewide support, the Delaware State Police and Wilmington Police Department. Court Summons, pre-trial release and short-form PSI activities were so minimal as to require little interagency coordination.

In sum, the program, in practice, consisted of MCC's (and staff) efforts to supervise the activities of case screening and SOP personnel; to assist the few police departments interested in expanding the police citation use; and to monitor the progress of the PROMIS and Court Summons components. In light of the difficulties experienced in implementing these components within agencies, neither the time nor the incentive existed for extensive interagency coordination efforts--the keystone of the ILCCH program.

In light of the program environment in New Castle County, the MCC had a remarkably difficult job to perform and did it well during the component development phase of the program. While it was obviously impossible to create a whole program from scratch, he and his assistant nonetheless overcame agency unfamiliarity with component concepts, reduced reservations regarding program participation, solved problems with administrative regulations and managed to proceed with specific component implementations. This was particularly true with PROMIS,

SOP, and case screening. In other instances, notably police citations and court summons, the MCC had to work closely from "the ground up" with police and court representatives to alleviate institutional concerns and assist in the development of operational procedures. Because the MCC was able to achieve compromises and develop the components at least to some degree, the program survived in spite of low interest and the attendant implementation difficulties.

The performance of the MCC and his staff following component implementation (September 1976) was less effective, however. The frustrations of constantly countering agency resistance (especially regarding the SOP component and the Magistrate's Courts screening unit) and the knowledge that most MPP components were unlikely to survive past the grant period, led to a decision by the MCC to depart from the program early, leaving some of the program activities virtually undirected during the latter months of the project. Problems with case screening, SOP, and police citations occurring during this period received what appeared to be less than adequate attention. Difficulties constraining the usage of police citation and court summons, while noted, were not vigorously addressed. Component activities were left to dissolve as funding ran out. This was especially unfortunate for the case screening component, where increased attention to the CCP results and advocacy in the later stages of component operations might have encouraged the incorporation of more formal screening procedures into Wilmington's lower courts. Notably, only PROMIS, which continues under the direction of a contractor working closely with the State Prosecutor, and the computer terminals purchased with MPP funds, are assured a permanent place in the case processing environment. Neither of these required much direct MCC involvement after implementation.



In sum, Wilmington's MPP program never achieved full status as a program. Rather components were developed and foisted upon often reluctant agencies. They then operated in a typically uncoordinated fashion depending upon the extent of agency interest, component applicability, and the MCC's ability to supervise, maintain, monitor, and revise operations. Under these conditions the lack of component impact and acceptance of program concepts was not surprising.

## 11.0 COMPONENT AND PROGRAM SUMMARY

The net impact of the Misdemeanant Processing Project on the manner in which misdemeanor offenses are handled in Wilmington (New Castle County) has been negligible. The interaction of components and increased attention to interagency cooperation and priority identification, integral to the ILCCH demonstration, were destined for failure at a very early time in the MPP's development. Poor pre-grant planning, the inability to establish substantial pregrant support for the program, and administrative problems surrounding the program's inception ensured this. Efforts by the MCC to salvage the program and to develop interest on an agency-by-agency basis, while somewhat effective at first, were eventually negated by many of the same problems detracting from the program's initial development: low agency commitment, low perceived need for component activities, and a basically negative attitude toward Federal programs of a short-term nature with subsequent state funding not a likely possibility.

A summary of component results in Wilmington provided in Table XI reflects the problems faced in developing the MPP program, especially the absence of need and the minimal applicability of the components. The need for police citations was questionable in light of: (a) a strong tradition of arrests and (b) the small potential for use as a result of criminal history and booking requirements which precluded the use of citations in the field. Furthermore, insufficient involvement with police representatives during grant development prevented a realistic assessment of these problems so that a logical strategy for implementing the component could be devised. Court summons faced similar problems which prevented effective implementation and use. Serious drawbacks--notably the interpretation of law that the summons had to be hand-delivered and its inapplicability to large numbers of out-of-state defendants--were not addressed at an



TABLE XI  
ILCCH COMPONENT SUMMARY  
WILMINGTON

	PRE-ILCCH STATUS	IMPLEMENTATION <sup>1</sup>	USE	INSTITUTIONALIZATION	OTHER COMMENTS
POLICE CITATION	PERMITTED BY STATE LAW. LIMITED USE BY CITY OF WILMINGTON - PRIMARILY FOR DRUNKS AT STATION-HOUSE.	AUGUST 1976 - FORM AND SAMPLE PROCEDURES DISTRIBUTED TO OVER 20 P.D.'S.	INFREQUENT, EXCEPT NEW CASTLE COUNTY AND NEWARK P.D.'S WHERE CITATION WAS USED BUT ISSUED AT STATION-HOUSE.	YES - FOR NEW CASTLE AND NEWARK P.D.'S - STATUS FOR OTHER P.D.'S UNDETERMINABLE AT THIS TIME.	SIGNIFICANT ADOPTION OF USE DEPENDS ON CHANGES TO BE MADE CONCERNING INFORMATION REQUIREMENTS FOR ARRESTS WHICH WOULD PERMIT ISSUANCE OF CITATIONS IN THE FIELD.
COURT SUMMONS	PERMITTED BY LAW. USED BY WILMINGTON MUNICIPAL COURT. NOT UTILIZED BY MAGISTRATE'S COURTS.	JULY 1976. MAGISTRATE'S COURTS ADOPTED SUMMONS PROCEDURES.	ESTIMATED TO BE USED FOR LESS THAN 20% OF ALL CITIZEN-BASED COMPLAINTS.	YES - LEVEL OF USE, PROBABLY DEPENDENT ON DECISION OF MAGISTRATES REGARDING DELIVERY OF SUMMONS BY MAIL.	USE CONSTRAINED BY POLICE PREFERENCE FOR ARRESTS AND LARGE VOLUME OF OUT-OF-STATE DEFENDANTS.
CASE SCREENING	NON-EXISTENT IN ALL LOWER COURTS IN NEW CASTLE COUNTY. AGGRAVATED BY THE FACT THAT THERE WAS NO PROSECUTION BY STATE REPRESENTATIVE AT MAGISTRATE'S COURTS.	JUNE 1970 - MAGISTRATE'S AND CCP COURTS. AUGUST 1976 - CITY SOLICITOR'S OFFICE FOR WILMINGTON MUNICIPAL COURT.	22% OF ALL MAGISTRATE'S COURT MISDEMEANOR CASES; 66% CCP CASES, AND, 100% MUNICIPAL COURT CASES. SIGNIFICANT CHANGES RESULTED ONLY FOR CCP.	NO - PRECLUDED BY UNAVAILABILITY OF FUNDING BY STATE.	MAGISTRATE'S COURTS IMPLEMENTATION INCLUDED, FOR FIRST TIME, ACTUAL PROSECUTION OF CASES BY DEPUTY ATTORNEY GENERAL (DAG).
PROMIS	SUBSTANDARD CASE TRACKING AND RECORD KEEPING IN STATE ATTORNEY GENERAL'S OFFICE.	MARCH 1977 - NEW CASE TRACKING SYSTEM AND ADMINISTRATIVE REORGANIZATION OF AG'S CRIMINAL DIVISION.	YES - APPLIES TO ALL FELONY CRIMINAL CHARGES - REVISIONS AND FURTHER PROMIS RELATED ACTIVITIES CONTINUE.	YES - SYSTEM INTEGRAL PART OF AG'S OFFICE.	MPP ACTIVITIES SUPPLEMENTED BY PUBLIC SERVICE FUNDS OF UNIVERSITY OF DELAWARE.
PRETRIAL RELEASE	MISDEMEANANTS TYPICALLY RELEASED ROR OR UNSECURED BOND. FEW DEFENDANTS DETAINED, PROVIDED FORMAL PRETRIAL INTERVIEWS AT STATE DETENTION CENTER.	NEW SERVICES NOT NEEDED. MPP FUNDS USED TO OBTAIN TWO COMPUTER TERMINALS FOR INCREASED ACCESS TO CRIMINAL HISTORY DATA. USE OF TERMINAL BEGAN JANUARY 1977.	USE PRIMARILY FOR SENTENCING AND PRETRIAL INFORMATION. INDICATIONS ARE THAT USE IS SUBSTANTIAL.	COMPUTER TERMINALS WILL BE MAINTAINED AFTER MPP TERMINATES.	
SHORT-FORM PRESENTENCE REPORT	PRESENTENCE SERVICES AVAILABLE TO ALL COURTS. REPORTS DISCRETIONARY FOR MISDEMEANANTS - SHORT-FORM USED BY MAGISTRATE'S COURTS. OBTAINING CRIMINAL HISTORY DATA IN TIMELY FASHION WAS PROBLEM.	NO NEED FOR NEW FORM. FUNDS USED TO PURCHASE SAME COMPUTER TERMINALS PURCHASED FOR PRETRIAL COMPONENT.	SEE PRETRIAL ABOVE.	SEE PRETRIAL ABOVE.	
SELECT OFFENDER PROBATION	MISDEMEANANTS PROVIDED PROBATION SERVICES BY DAC AS PART OF GENERAL CASELOAD (MIXED WITH FELONY OFFENDERS).	TWO PROBATION OFFICERS HIRED TO SUPERVISE MISDEMEANANT CASELOAD - JULY 1976 WITH INTENT TO PROVIDE INTENSIVE SERVICE.	SUPERVISED ABOUT 60 CLIENTS, UNLIKELY HOWEVER, THAT MORE INTENSIVE SERVICES WERE PROVIDED.	NO.	FEW MISDEMEANANTS INCARCERATED. THUS SOP NOT SEEN AS AN ALTERNATIVE TO INCARCERATION.

<sup>1</sup> THE WILMINGTON GRANT APPLICATION WAS APPROVED AUGUST 1975.

early time and component implementation by the MCC was not as effective as it could have been. The absence of police representatives in the grant planning process, as with police citation, also contributed to an early implementation effort lacking in direction.

The pretrial and short-form presentence report components were of questionable utility and were not desired by the Department of Corrections. Pretrial release, designed to operate in a high-volume system where bail setting is arbitrary and detention common, was not applicable to the Magistrate's Courts where release decisions were made. Most misdemeanor defendants did not have to post bond and for those for whom bail was set, pretrial release services were available. Short-form presentence reports were not a priority for misdemeanants and along with the pretrial component was resisted by the DAC especially when the component plans involved hiring additional personnel. A compromise involving the use of component funds for the purchase of two computer terminals enticed DAC acceptance, if not participation, and appears to have provided magistrates with more timely sentencing and pretrial information.

The utility of other components, especially case screening and SOP, was not adequately demonstrated, but this was more the result of inadequate agency commitment and administration than the lack of need or applicability. Case screening offered Wilmington's lower courts, the Attorney General's Office, and the City Solicitor's Office the opportunity to eliminate meritless cases from prosecution and to apply resources to cases with better prosecutorial promise. Unfortunately the necessary efforts were not made to implement effective case screening procedures. Further, the day-to-day direction of screening activities and operations was left entirely to the MCC and these never were completely integrated as standard operating procedures for the courts or prosecutors. The screening procedures

which were instituted under these conditions were subject to extensive organizational problems, further preventing a consistent and competent implementation effort. Only the efforts to screen cases at CCP which benefited from commitment and competence among the personnel involved, resulted in any positive, demonstrable effect. Personnel in the Magistrate's Courts were resentful of the "extra" burden posed by case screening; further the organization and philosophical base of the Magistrate's Courts as decentralized "neighborhood" arbitration centers, complicated the conceptualization of case screening efforts in these courts and raised questions as to the applicability of such screening in courts which encourage magisterial decision-making and discourage the presence of legal representatives for either the prosecution or defense.

The SOP component was never vigorously supported by the Department of Adult Corrections and although MPP provided two probation officers to supervise an exclusively misdemeanor caseload, neither DAC nor the MCC clearly defined the purpose or operating procedures for component activities. Complicated by poor selection of staff, unarticulated client selection procedures, and inadequate supervision, this component could not demonstrate the value of any conceptual approach regarding the supervision of misdemeanor offenders.

In terms of general criminal justice system improvement, it appears that the most successful component of the MPP in Wilmington will turn out to be PROMIS. Efforts by the MCC to acquaint the AG's Office with the PROMIS concept resulted in a commitment by the State Prosecutor to use PROMIS as a means to improve a felony case processing system which left a great deal to be desired. In effect, the ability to process cases and track their progress was severely hampered by archaic record keeping, duplication of effort and an unsystematic administrative organization. PROMIS has allowed

implementation of a new case tracking system; an assessment and documentation of the duties and responsibilities of case processing personnel; and the development of new plans for the physical layout of office space in the AG's Office. These activities and other reorganization activities that continue as a result, should bring about significant changes in the management and performance of the AG's office. Although these improvements concern felony, rather than misdemeanor case processing, they are nonetheless the result of ILCCH program efforts in Wilmington, and should eventually affect the misdemeanor caseload as well.

As a program (that is, as a series of organized and coordinated set of interrelated activities), MPP was destined to fail with the demise of the steering committee late in 1975. Without this body to provide a viable policy base and to plan and coordinate component plans, there was little potential for significant change in the processing of misdemeanors in New Castle County. Even with a coordinating body of some type, however, it is questionable whether ILCCH and its basic concepts could have had much impact. A number of factors were identified during interviews conducted with local criminal justice personnel that suggest this. First, the lower court system in New Castle County is extremely fragmented, to the extent that three levels of the judiciary can be involved with the processing of a single misdemeanor's case (see Section 2.0). The Magistrate's Court system itself, while unified on paper, is essentially a system of loosely confederated individual neighborhood courts, each with somewhat different caseloads, problems, and administrative practices. Successful implementation of components such as police citation, court summons and case screening, regardless of the soundness of the concepts, would be extremely difficult under these conditions.

Secondly, there existed very little information regarding the processing of misdemeanants from which to assess New Castle County's suitability for the program and to design component plans accordingly. This data, which might have played a large role in the revision of component plans earlier in the MCC's efforts, was not available and resulted in excessive delays and the inability to quickly design components which would gain agency support.

Finally, even with sufficient data, a number of other "need" considerations argued against a successful ILCCH program in Wilmington. The lack of state resources to apply to criminal justice in general, and fairly extensive problems with felony case processing, rendered state-supported improvements in misdemeanor justice a low priority. Further, the few needs and priorities which were identified for misdemeanors by the criminal justice community were not addressed by ILCCH. The processing of traffic offenses (a special problem for a state located in a highly traveled inter-state corridor), the training and upgrading of administrative personnel, centralization and increased uniformity of intake and arraignment procedures (including the review and screening of warrant requests), and the need for increased diversionary options for misdemeanants, were all mentioned as priority areas for improvements in the system of misdemeanor justice in New Castle County.

Given these problems, the MCC inherited awesome responsibilities with regard to a developing program for which there was no perceived or demonstrable need, no aggressive commitment or participation, and no guidelines to direct his activities. In effect, he became the single link among a series of modified component activities, the only entity to provide any identification for ILCCH as a program. While his efforts were substantial, it was practically impossible to provide participants with the sense of common purpose needed to initiate coordinated



problem-solving in the area of misdemeanor case-handling. The difficulties that plagued the development of the program at the start and which should have argued against the selection of New Castle County as a program site, inevitably played a large role in the demise of specific component activities there, and in the failure of the program to make any substantial impact on misdemeanor processing.

## APPENDIX

### NEW CASTLE COUNTY CRIMINAL JUSTICE SYSTEM DESCRIPTION

#### POLICE

Delaware is divided into three counties. The northernmost, New Castle County, is the largest in population. It contains the only major metropolitan area in the state, Wilmington and its environs. Exclusive of incorporated areas, County and State Police have dual jurisdiction in New Castle County, though State Police were recently given the powers of major investigation in New Castle County.

The two southern counties, Kent and Sussex, are primarily rural or resort areas. Except for Dover, the state capital, no police department in the two counties has more than 20 men. Kent and Sussex have no county police. The state has 35 local police departments plus the State Police, employing 1,115 full-time, sworn officers.<sup>19</sup>

There are 428 officers in the Delaware State Police (DSP). The DSP maintains eight troops, geographically dispersed throughout the state.

There are four large local police departments in the state. The largest of these is the City of Wilmington's Bureau of Police which has an authorized strength of 271 sworn officers. New Castle County has 188 sworn personnel; Newark has 43 police personnel; and Dover has 47 sworn members.

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<sup>19</sup>1976 Comprehensive Plan for the Improvement of the Criminal Justice System in Delaware, Delaware Agency to Reduce Crime, September 1975. Unless otherwise noted, all subsequent figures are from this source.

## PROSECUTION

In Delaware, the Attorney General is the state's chief legal officer, charged with directing all criminal proceedings that involve violation of state law and with maintaining the public peace. He is an elected official serving a four-year term.

To fulfill the assigned responsibilities, the Attorney General's Office is divided into two divisions -- criminal and civil. The Attorney General may appoint a Chief Deputy Attorney General, State Solicitor, State Prosecutor, and as many deputies as his budget allows. The deputies in the criminal division of the state Attorney General's Office prosecute felony cases and serious misdemeanors in the Superior Court, and misdemeanor charges in the Court of Common Pleas. The prosecutors also participate in criminal matters heard in Family Court.

The Wilmington Law Department prosecutes all criminal cases in the Municipal Court of the City of Wilmington. The City Solicitor, who heads the Department, is an appointee of the Mayor. Seven Assistant City Solicitors comprise the legal staff of the Department. Two of the Assistant City Solicitors are assigned to full-time criminal prosecution. Each Assistant is permanently assigned to one of the two courtrooms comprising the Municipal Court. As such, the Assistant prosecutes all criminal cases heard in that room on a regular basis. In addition, the City Solicitor and each of the remaining Assistant City Solicitors are sworn as Deputy Attorneys General in order to assist in the event of a substantial criminal load. A Prosecutor's Assistant, funded by the LEAA, further augments the criminal prosecution staff.

Established by state statute, the Office of the Public Defender, must defend each indigent person charged with a crime, should a defendant request such representation or the court order it.

The Public Defender heads the office and is appointed for six years by the Governor. There is a Chief Assistant Public Defender who reports to the Public Defender and supervises the office staff. Additionally, there is the Chief Appellate Assistant, responsible for supervising appeals to the Supreme Court and directing the activities of the law clerks and attorneys working in that division, and the Chief Trial Assistant, who supervises all trial attorneys in all courts in Delaware and assigns cases for trial to attorneys. There are nine full-time assistant public defenders--one in Kent County and the rest in New Castle County. The lower counties each have one part-time assistant public defender; New Castle has 14. The Public Defender and Chief Assistant Public Defender are located in the Wilmington office. Two assistant public defender positions are federally funded; the other 23 positions are funded by the state.

The Community Legal Aid Society, Inc. (CLASI) provides representation to indigents essentially for civil matters only, some of which, however, may result in criminal penalties. CLASI's major impact on the criminal justice system results from its representation of juveniles charged with offenses that, if committed by adults would be criminal matters, but due to the age of the offender, constitute juvenile delinquency in accordance with state statutes.

The Public Defender provides representation only to those juveniles charged with serious offenses that would be considered criminal activity for adults. As a result, a significant number of juvenile clients who appear before Family Court require legal

representation from another source. A DARC grant has been providing staff support to the CLASI attorney representing juveniles in status offenses heard before Family Court.

## COURTS

Delaware's criminal courts are characterized as being a unified state system. There are, however, two exceptions to the statewide system--the Municipal Court of Wilmington and the three County Alderman's Courts.

The Delaware Supreme Court is the state's highest court and the court of last resort for all appeals. Comprised of a Chief Justice and two Associate Justices, each appointed by the Governor and confirmed by the Senate for a twelve-year term,<sup>20</sup> this court hears both criminal and civil appeals from the Superior Court, as well as appeals from the Court of Chancery (which deals exclusively with civil cases). The Supreme Court holds regular sessions in Dover (the state capital) and maintains chambers and office space in each of the state's three counties.

The Chief Justice of the Supreme Court is statutorily responsible for the general administration and supervision of all state courts. The organizational vehicle for these responsibilities is the Administrative Office of the Courts (AOC), which provides staff support for this function. The Director of the AOC is selected by the Chief Justice of the Delaware Supreme Court. The Director's duties include preparation of the budget for all state courts, collection of statistics and preparation of the annual court report. The AOC is staffed by five state civil service employees.

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<sup>20</sup> Delaware is the only state in the Nation whose highest court consists of less than five members.

As the state's highest court with original jurisdiction, the Superior Court is the only court in Delaware empowered to try felonies and drug offenses. The court consists of a Presiding Judge and ten Associates, each appointed by the Governor and approved by the State Senate to serve a twelve-year term. The Court holds sessions in each of Delaware's three county courthouses (New Castle, Kent, Sussex), and in the cities of Wilmington, Dover, and Georgetown. Superior Court judges rotate among the counties.

In addition to having original jurisdiction for all felony and drug offenses, the Superior Court in each county reviews misdemeanor appeals from the state's lower courts. Jurisdiction of misdemeanors is somewhat different, however, for the Superior Court of New Castle County than for the courts in the state's remaining two counties (Kent and Sussex). In New Castle County, the Superior Court is the only court in the county providing jury trials. Consequently, a defendant requesting a trial by jury (when the option is available under law)<sup>21</sup> must be tried in Superior Court. Final appellate review rests with the State Supreme Court.

In Kent and Sussex Counties, the Superior Court is involved in misdemeanor cases only to the extent that it reviews appeals on the record from jury trials held in the Court of Common Pleas and appeals for trial de novo from bench trials held in the lower courts (Magistrate's and Alderman's Courts).

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<sup>21</sup> A misdemeanor offender arrested in the City of Wilmington does not have the right to a trial by jury, and receives a non-jury trial in the Wilmington Municipal Court. Judgments in Municipal Court may be appealed to the Superior Court which then can provide a jury trial. This type of appeal is for trial de novo. Such appeals call for a completely new hearing as a matter of right, as no record of lower court proceedings is maintained.

Administrative staff support for the Superior Court is appointed by an elected County Prothonotary. The Prothonotary is designated by the state Constitution as the Clerk for Superior Court. Thus, this administrative staff is not under the control of either the judges or the Court Administrator. Superior Court has a total staff of 79 employees.

Below the Superior Court in each of Delaware's three counties is the Court of Common Pleas (CCP). These courts have criminal jurisdiction for all misdemeanors. For the New Castle County CCP, this jurisdiction is shared by statute with the Wilmington Municipal Court for all misdemeanors which occur in the city and with the Magistrate's Courts for certain minor misdemeanors.

Both Kent and Sussex County CCP provide trials by jury. Because of this, in these counties, the CCP tries cases which could be tried by a magistrate but for the fact that the defendant exercises his right to a jury trial. The New Castle County CCP, on the other hand, does not provide jury trials; these are only available through transfer to the New Castle County Superior Court.

Four judges comprise the CCP bench. The Chief Judge and one associate hold court in New Castle County, while Kent and Sussex counties are each served by one associated judge. All CCP judges are lawyers, gubernatorial appointees confirmed by the State Senate, and serve terms of twelve years. The judges have a support staff of 26.

The Magistrate's Courts (Justice of the Peace Courts) are the potential point of entry into the criminal justice system for all alleged offenders arrested in the state outside the City of Wilmington. By statute, Magistrate's Courts have the power to hear and determine

all traffic offenses and specific minor misdemeanors, and to hold preliminary hearings to determine probable cause in all felony and major misdemeanor cases. As the courts of first instance outside the City of Wilmington, virtually all criminal offenses are lodged in these courts as complaints upon sworn affidavits. The courts' major civil jurisdiction covers matters where the amount in controversy does not exceed \$1,500. Additionally, the courts hear problems arising under the state's Tenant/Landlord Code.

There are twelve Magistrate's Courts located throughout the state, providing twenty-four hour service. Delaware law authorizes 53 magistrates who are full-time, salaried officials, appointed by the Governor for four-year terms. The overwhelming majority of magistrates are not lawyers.<sup>22</sup> A Deputy Administrator, located in the AOC, is charged with the judicial administration of the state-wide magistrate system. The state furnishes facilities and clerical assistance to the magistrates. In addition to the Deputy Administrator, the staff consists of an Assistant Deputy Administrator, 24 constables, 64 clerks, six bailiffs, and nine other employees.

The Magistrate's Courts, serving all but the City of Wilmington, have jurisdiction to hear and finally determine twenty-eight misdemeanors. All other offenses must be sent to Superior Court (if a felony or a drug offense) or to the Court of Common Pleas (if a misdemeanor). As noted above, the Magistrate's Courts are predominantly presided over by "lay" judges; consequently, a defendant is permitted, by law, to elect to have his case heard before a lawyer-judge in the Court of Common Pleas, or he may elect a trial by jury.

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<sup>22</sup> Delaware law does not require that a magistrate be a lawyer.



If a jury trial is elected in Kent or Sussex Counties, the case is transferred to the Court of Common Pleas. In New Castle County, if a jury trial is requested, the case must be moved through the CCP to the Superior Court--the only court in the county which provides for such trials. All appeals from the Magistrate's Courts are made to Superior Court; a trial de novo is required since Magistrate's Courts are not courts of record.

The Magistrate's Courts conduct preliminary hearings on felony charges lodged outside the City of Wilmington; upon a finding of probable cause, defendants are bound-over to Superior Court to await grand jury indictment.

The Wilmington Municipal Court has concurrent jurisdiction with the New Castle Court of Common Pleas over all misdemeanors committed in the City of Wilmington. This court issues warrants and draws information on all arrests made by the Wilmington Bureau of Police. The court hears and disposes of traffic and misdemeanor cases occurring within the city limits. Additionally, it holds preliminary hearings for felony and drug-related misdemeanor cases to determine whether a case should be bound-over for trial in Superior Court. Jury trials are not available in this court; an appeal for a trial de novo is required by a defendant to receive a jury trial in Superior Court.

Municipal Court is headed by a Chief Judge who serves full-time, and two Associate Judges, one serving full-time and the other part-time. All judges are lawyers and are appointed by the Governor for twelve-year terms.

The chief administrator of the Municipal Court is the Clerk of the Court (an elected city position). He is assisted by 24 employees, including four deputy clerks. The Clerk and three of the deputy

clerks maintain dual positions as Court Commissioners (sometimes referred to as Bail Commissioners). They receive complaints, sign warrants, issue summons, and set bail.

The Alderman's Courts, like the Wilmington Municipal Court, are neither state-supported nor supervised. There are presently twelve Alderman's Courts operating in Delaware; four in New Castle County and eight in Sussex. These courts are established by local governments and, as such, their jurisdiction is limited to violations of local (town) ordinances (usually verbatim copies of state statutes covering minor misdemeanors).

Aldermen are appointed by the local governing authority; only one alderman now serving is an attorney. Trial for offenses in these courts' jurisdictional purview is immediate. Because these courts are not courts of record, appeals for new trials may be made de novo to the Superior Court.

#### CORRECTIONS/PROBATION

The Bureau of Adult Corrections is responsible for all persons sentenced to either incarceration or probation, and is further responsible for providing parole services. The Bureau receives clients by order of the courts and has no control over who or how many people are placed under its jurisdiction.

There are three institutions under the Bureau's jurisdiction: the Delaware Correctional Center (DCC), has a capacity of 441, and houses both sentenced defendants and detainees. Sussex Correctional Institution, with a 235-person capacity, also holds both sentenced adults and those in detention. The Women's Institutional Center was converted to a male Pre-Trial Detention Center, and women were transferred to a section at the Woods Haven-Kruse School.

The Community Services division of the Bureau employs 63 persons and has two field offices, one in Wilmington for New Castle County and one in Milford to serve the two lower counties. The division and its branches have a variety of programs, including: probation; pretrial release; parole; alcohol and drug treatment; presentence investigation; work referral and release; and other community service programs.



**END**