

# STATE OF DELAWARE THE COURTS OF THE JUSTICES OF THE PEACE 820 NORTH FRENCH STREET, 1 1TH FLOOR WILMINGTON, DELAWARE 19801

TELEPHONE. (302) 571-2485

IORMAN A. BARRON Chief Magistrate

TO:

ALL JUSTICES OF THE PEACE

STATE OF DELAWARE

FROM:

NORMAN A. BARRON

CHIEF MAGISTRATE

DATE:

JULY 8, 1980

RE:

CAPIAS ISSUED OUT OF COURT OF COMMON PLEAS

A capias issued out of the Court of Common Pleas is issued, according to Chief Judge Wahl of the Court of Common Pleas, only as a final measure to produce a defendant in that Court when other less intrusive avenues have been exhausted. Therefore, the Court of Common Pleas requests the option of setting bail on the defendant returned on that capias. Under the above rationale, we have followed the general policy of not acting upon a capias issued out of the Court of Common Pleas. This policy is to be continued with one variation, as explained below.

Justice of the Peace participation usually arises when an individual is apprehended on an outstanding capias issued by the Court of Common Pleas and the apprehension is made after normal Court of Common Pleas hours. When the individual is a male, there should be no problem because the police agencies have holding cells which can be utilized until a Court of Common Pleas appearance is possible. With regard to female defendants, the situation is different. I am aware of no police agency holding cell specially designed for a female detentioner. What procedure is to be followed with regard thereto?

- 1. If the apprehending police officer has a Court of Common Pleas capias or a copy of same in his possession, then Warden Delores Baylor of the Women's Correctional Institute informs us that WCI will accept the female on the basis of the capias or copy of same in the officer's possession.
- 2. If the apprehending police officer does not have in his possession the Court of Common Pleas capias or a copy of same, WCI will not accept the female apprehended, and will accept said female only in the event that a commitment order has been issued.

If a police officer appears before you after normal Court of Common Pleas hours with a female apprehended on an outstanding Court of Common Pleas capias, ascertain if the officer has the capias or a copy of same in his possession. If so, then instruct the officer to transport the female to the Women's Correctional Institute. If not, then telephone me or, if I am unavailable, the Deputy Chief Magistrate of your county for advice. We will decide each such incident on a case-by-case basis, taking into account such factors as the basis of the officer's information and whether such information comes to the officer by first or second-hand knowledge, the date the capias was issued as compared with the date of the apprehension on that capias, the reason for the issuance of the capias, the background of the female and other appropriate factors. If we decide that commitment is in order, the commitment papers should reflect that the female should be brought before the applicable Court of Common Pleas at its next scheduled session.

#### NAB: pm

cc: The Honorable Daniel L. Herrmann The Honorable Robert H. Wahl Warden Delores Baylor, WCI John R. Fisher Files



# STATE OF DELAWARE THE COURTS OF THE JUSTICES OF THE PEACE 820 NORTH FRENCH STREET, 11TH FLOOR WILMINGTON, DELAWARE 19801

WILLIAM F. RICHARDSON CHIEF MAGISTRATE TELEPHONE: (302) 577 - 6001

## POLICY DIRECTIVE NO. 80-003 (REVISED)

TO:

ALL JUSTICES OF THE PEACE, STATE OF DELAWARE

ALL CLERKS OF THE COURT, JUSTICE OF THE PEACE COURTS

FROM:

WILLIAM F. RICHARDSON

CHIEF MAGISTRATE

DATE:

JULY 15, 1992

RE:

CAPIASES ISSUED OUT OF THE COURT OF COMMON PLEAS

Policy Directive No. 80-003 dated July 8, 1980 was issued in response to the Court of Common Pleas' procedures at that time regarding the return of capiases issued by that Court. The Court of Common Pleas is now implementing a new policy concerning returns of capiases issued by that Court in New Castle County. The New Castle County Court of Common Pleas will now deal with returns of their capiases twice each day; once at 11:00 a.m. and again at 3:00 p.m.

In the spirit of cooperation with that Court, along with our willingness to help alleviate prison overcrowding and unnecessary transportation of pre-trial detainees, the Justice of the Peace Courts in New Castle County will now accept and set bail for defendants arrested on Court of Common Pleas capiases when presented after 3:00 p.m. Monday through Friday. The current

practice of allowing a Court of Common Pleas capias to serve as an automatic overnight commitment without an initial bail hearing for defendants arrested Monday through Friday has been terminated. All defendants will be provided with a bail hearing in a Justice of the Peace Court where appropriate within the application of this Directive. If a defendant cannot post the bail set by a Justice of the Peace, he or she should be committed in default of bail for an appearance in the Court of Common Pleas on the next morning when the Court is in session.

Justices of the Peace have discretion to set whatever bail they deem necessary to assure the appearance of the defendant and the safety of victims and the community. In this process, Justices of the Peace should be guided by Legal Memorandum No. 92-191, Bail Guideline Recommendations, input from the arresting officer, Pre-trial Services where applicable, and any notes or requests from the issuing Court concerning recommended amounts of bail and conditions of release.

With this policy change, every defendant arrested in New Castle County on a weekday between the hours of 3:00 p.m. and 11:00 p.m. pursuant to a Court of Common Pleas capias shall be taken to Justice of the Peace Court No. 18 where initial bail will be set. Defendants arrested on Court of Common Pleas capiases who cannot be presented at Court No. 18 by 11:00 p.m. at the latest on weekdays shall be taken to Justice of the Peace Court No. 11 at Hares Corner which is open 24 hours each day for purposes of setting bail. On Saturdays and Sundays, defendants arrested on Court of Common Pleas capiases may be taken to the nearest open Justice of the Peace

Justice of the Peace Court where bail will be set. In this regard our Courts in New Castle County will now perform the same functions after 3:00 p.m. during the week that we currently do during weekends.

The Justice of the Peace Court's current procedure in Kent and Sussex Counties shall remain unchanged. In these counties, Court of Common Pleas capiases shall continue to be returned at the nearest open Justice of the Peace Court where bail will be set during the hours that the Court of Common Pleas is not in session.

Policy Directive No. 80-003 is hereby rescinded and replaced by this writing. This Policy Directive is effective upon receipt.

### WFR:jp

cc: The Honorable E. Norman Veasey The Honorable William T. Allen The Honorable Henry duPont Ridgely The Honorable Vincent J. Poppiti The Honorable Robert H. Wahl The Honorable Alfred R. Fraczkowski The Honorable Thomas B. Ferry The Honorable Charles M. Oberly, III Lawrence M. Sullivan, Esq. Eugene M. Hall, Esq. Robert J. Watson Henry Risley Elizabeth Neal Phillip Morgan Patrick Ryan Keith Brady, Esq. Sam McKeeman Thomas W. Nagle Anna A. Lewis New Castle County Law Enforcement Agencies Law Libraries: New Castle, Kent and Sussex Counties File



## THE COURTS OF THE JUSTICES OF THE PEACE 820 NORTH FRENCH STREET, 11TH FLOOR WILMINGTON, DELAWARE 19801

WILLIAM F. RICHARDSON CHIEF MAGISTRATE TELEPHONE: (302) 577 - 6001

## POLICY DIRECTIVE NO. 80-003 (SUPPLEMENT)

TO:

ALL JUSTICES OF THE PEACE, STATE OF DELAWARE

ALL CLERKS OF THE COURT, JUSTICE OF THE PEACE COURT

FROM:

WILLIAM F. RICHARDSON

CHIEF MAGISTRATE

DATE:

JULY 27, 1992

RE:

CAPIASES ISSUED OUT OF THE COURT OF COMMON PLEAS

(NEW CASTLE COUNTY)

In the brief time that Policy Directive No. 80-003 (Revised) has been in effect, it has become clear that the number of Court of Common Pleas capiases that the Justice of the Peace Courts in New Castle County will have to process now as a result of recent policy changes in both Courts are minimal and will not create an undue burden on our staff in New Castle County.

Accordingly, all Court of Common Pleas capiases returned at Justice of the Peace Courts in New Castle County after 3:00 p.m. Monday through Friday may be returned at the nearest open Justice of the Peace Court. In each of these cases, the arresting officer must present the defendant to the bonding Court for a bail hearing at least one hour before that Court closes. All Court of Common Pleas capiases returned after 11:00 p.m. shall be presented and processed at Justice of the Peace Court No. 11 at Hares Corner.

Because of the secure prison setting, the original federally funded setup of Justice of the Peace Court No. 18 as a felony screening court and the obvious inappropriateness of holding defendants accused of relatively minor traffic violations with those charged with violent felonies, Justice of the Peace Court No. 18 does not handle Title 21 traffic offenses. Since a large number, if not most, of the capiases issued by the Court of Common Pleas are for Title 21 offenses, it follows that these capiases should not be returned at Justice of the Peace Court No. 18 unless accompanied by other charges which would ordinarily be presented at that Court. Consequently, in New Castle County, Court of Common Pleas capias returns will not be processed at Justice of the Peace Court No. 18.

This Policy shall be effective upon receipt.

### WFR: jp

cc: The Honorable E. Norman Veasey The Honorable William T. Allen The Honorable Henry duPont Ridgely The Honorable Vincent J. Poppiti The Honorable Robert H. Wahl The Honorable Alfred R. Fraczkowski The Honorable Thomas B. Ferry The Honorable Charles M. Oberly, III Lawrence M. Sullivan, Esq. Eugene M. Hall, Esq. Robert J. Watson Henry Risley Elizabeth Neal Phillip Morgan Patrick Ryan Keith Brady, Esq. Thomas W. Nagle Anna A. Lewis New Castle County Law Enforcement Agencies Law Libraries: New Castle, Kent and Sussex Counties File PD80003S



## THE COURTS OF THE JUSTICES OF THE PEACE

820 NORTH FRENCH STREET, 11TH FLOOP WILMINGTON, DELAWARE 19801

WILLIAM F. RICHARDSON
CHIEF MAGISTRATE

TELEPHONE: (302) 577 - 6001

## POLICY DIRECTIVE NO. 80-003 (2ND SUPPLEMENT)

TO: ALL JUSTICES OF THE PEACE, STATE OF DELAWARE

ALL CLERKS OF THE COURT, JUSTICE OF THE PEACE COURTS

FROM: WILLIAM F. RICHARDSON

CHIEF MAGISTRATE

DATE: SEPTEMBER 21, 1992

RE: CAPIASES ISSUED OUT OF THE COURT OF COMMON PLEAS

(NEW CASTLE COUNTY)

Since there seems to be some confusion with regard to the handling of Court of Common Pleas capiases, this 2nd supplement is intended to clarify the handling of these capiases during the hours that the Court of Common Pleas is open.

As previously stated, Court of Common Pleas capiases will be taken to the nearest Justice of the Peace Court for the purpose of setting bond after 3:00 p.m. and up till 8:00 a.m., and throughout the weekend.

Court of Common Pleas capiases should not be returned to Justice of the Peace Court No. 18 unless accompanied by other charges normally handled by that court. Effectively immediately, defendants normally brought before Justice of the Peace Court No. 18 with accompanying charges, and an outstanding Court of Common Pleas capias will be brought directly to Gander Hill any time

between the hours of 9:00 a.m. and 9:00 p.m. for the purpose of setting the bond. This will alleviate the necessity for the arresting officer to take a defendant to the Court of Common Pleas and then bring them to Justice of the Peace Court No. 18. This procedure is too time consuming and a waste of police time and court time.

This policy shall be effective upon receipt.

mw

The Honorable Norman E. Veasey cc: The Honorable Andrew G.T. Moore, II The Honorable Henry duPont Ridgely The Honorable Robert H. Wahl The Honorable Vincent J. Poppiti The Honorable Alfred R. Fraczkowski The Honorable Charles M. Oberly, III Lawrence M. Sullivan, Esq. Eugene M. Hall, Esq. Keith Brady, Esq. Henry N. Herndon, Jr., Esq. Thomas W. Nagle Anna A. Lewis All New Castle County Law Enforcement Agencies File (PD80003)