

STATE OF DELAWARE THE COURTS OF THE JUSTICES OF THE PEACE 820 NORTH FRENCH STREET 11TH FLUCK WINNETEN DELAMABE 19801

NORMAN A BARRON CHEF MASHIFATE Tillerine 202 ETTLAFS

POLICY DIRECTIVE 84-084 (REVISED)

TO:

ALL JUSTICES OF THE PEACE

STATE OF DELAWARE

FROM:

NORMAN A. BARRON

CHIEF MAGISTRATE

DATE:

JULY 15, 1985

RE:

BAIL REVIEW (NEW CASTLE COUNTY ONLY)

It appearing:

- 1. That the operation of Court No. 18 located within the Multi-Purpose Criminal Justice Facility at Gander Hill has achieved an important objective of enhancing informed bail determinations because of the presence and participation of personnel from the Department of Justice, the Public Defender's Office and the Pretrial Services Office; and
- 2. That the operation of Court No. 18 ought to be utilized to the maximum extent possible; and
- 3. That during other than the normal hours of operation of Court No. 18, male and female adults arrested outside of the City of Wilmington for felonies and for related felonies and misdemeanors are brought to Court Nos. 10, 11, and 15 for their initial appearances whereat bail is set without the presence of personnel from the Department of Justice, the Public Defender's Office and the Pretrial Services Office; and

- 4. That, with regard to those cases falling within paragraph 3 above, good cause exists for having a bail review hearing at the earliest possible time where additional and/or updated information regarding the defendant and/or the charge(s) against him or her could be brought to the Court's attention; and
- 5. That it is in the interest of justice to provide as much background information as possible on defendants appearing before the court for initial appearances so as to enable the court to render informed bail determinations.

I.

NOW THEREFORE, IT IS DIRECTED that, with regard to a felony or felony/misdemeanor case where initial bail is set at Court Nos. 10, 11, and 15 and where the defendant, a male, is incarcerated at the Multi-Purpose Criminal Justice Facility for failure to post bail for his next scheduled court appearance, it shall be standard procedure for the Justice of the Peace who initially set bail to continue the case for the next regularly scheduled session of Court No. 18 for the purpose of having a bail review hearing at said Court.

 $^{^{}m l}$ The Court which holds the initial appearance should assign to the case a Justice of the Peace Court case number. All paperwork which would normally be forwarded to the Court of Common Pleas, (i.e., the pink copy of the warrant and affidavit, the Green Sheet, and a copy of the commitment papers) should be given to the law enforcement officer who transports the defendant to the Multi-Purpose Criminal Justice Facility. The law enforcement officer should be instructed to leave all paperwork with the Booking and Receiving personnel. Court No. 18 personnel will pick up from Booking and Receiving the necessary paperwork in the morning of the next regularly scheduled session of the Court. The commitment papers should indicate thereon that the case is continued for a bail review hearing at Court No. 18 on the next regularly scheduled date during which said Court is in operation. A sample commitment for a defendant subject to a bail review hearing as contemplated by this Policy Directive is attached hereto as Appendix A.

It shall further be standard procedure that the Justice of the Peace who is regularly scheduled at Court No. 18 shall, if requested, conduct said bail review hearing and shall thereafter schedule the case for a preliminary hearing in the Court of Common Pleas in the normal manner. The Clerk at Court No. 18 should ensure that the case documents are updated to reflect the action taken at the bail review hearing.

II.

IT IS FURTHER DIRECTED that, with regard to a felony or felony/misdemeanor case where initial bail is set at Court Nos.

10, 11, and 15 and where the defendant, a female, is incarcerated at the Woman's Correction Institute for failure to post bail for

It may be that the Attorney General's Office, the Public Defender's Office and the Pretrial Services Office see no need for a bail review hearing. In other words, these agencies may agree with the amount of bail originally set. In such cases, the defendant will not have to appear before the Justice of the Peace assigned to Court No. 18. Instead, the Clerk at Court No. 18 will simply forward the paperwork regarding the case to the Court of Common Pleas. When a bail review hearing is desired, the party requesting same may move the court, either orally or in writing, for such a hearing.

Should the defendant be released as a result of the bail review hearing, the Court will have to prepare a Bond And Subpoena/Order To Appear form and a Release form. The original Release form goes to the correctional institution having custody of the defendant. A copy thereof, plus a copy of the Bond And Subpoena/Order To Appear, the pink copy of the warrant and affidavit, the Green Sheet, and a copy of the commitment papers all are forwarded to the Court of Common Pleas. Should the defendant continue in the custody of the Department of Correction following the bail review hearing, the Clerk will add the new bail information to the bottom of the Court's copy of the commitment papers and the Magistrate will attest to this updated information. The Clerk will then forward the pink copy of the warrant and affidavit, the Green Sheet, and the updated copy of the commitment papers to the Court of Common Pleas.

her next scheduled court appearance, it shall be standard procedure for the Justice of the Peace who initially set bail to continue the case for the next regularly scheduled session of Court No. 18 for the purpose of having a bail review hearing at said Court.⁴

It shall further be standard procedure that the Justice of the Peace who is regularly scheduled at Court No. 18 shall, if requested, conduct said bail review hearing and shall thereafter schedule the case for a preliminary hearing in the Court of Common Pleas in the normal manner. 5 The Clerk at Court No. 18 should ensure that the case documents are updated to reflect the action taken at the bail review hearing. 6

* * * * *

with regard to all bail review hearings, it shall be standard procedure for the Senior Clerk of Court No. 18 to maintain a record of all such hearings and the actions taken at said hearings.

⁴The Court which holds the initial appearance should assign to the case a Justice of the Peace Court case number. All paperwork which would normally be forwarded to the Court of Common Pleas (i.e., the pink copy of the warrant and affidavit, the Green Sheet, and a copy of the commitment papers) should be hand-carried to Court No. 18 by a Justice of the Peace Constable on the next regularly scheduled work day following the initial appearance. The original commitment papers should be given to the law enforcement officer who transports the female detainee to WCI. Said law enforcement officer should leave the original copy of the commitment papers at WCI when he turns custody of the female detainee over to WCI. The commitment papers should indicate thereon that the case is continued for a bail review hearing at Court No. 18 on the next regularly scheduled date during which said Court is in operation. A sample commitment for a defendant subject to a bail review hearing as contemplated by this Policy Directive is attached hereto as Appendix A. The Department of Correction has agreed to ensure that the female detainee is transported to Court No. 18 for the bail review hearing, if requested.

⁵See footnote 2.

⁶See footnote 3. Of course, Department of Correction personnel will be responsible for transporting the female detainee back to WCI should she remain in the custody of said Department.

It is requested that the Attorney General's Office, the Public Defender's Office, the Pretrial Services Office, and the Department of Correction assist in the implementation of this policy which shall become effective upon receipt of this Policy Directive. Policy Directive 84-084, dated February 10, 1984, is hereby rescinded. Policy Directive 84-084 (Supplement), dated August 16, 1984, is also hereby rescinded.

NAB:pn

Attachment

Cc: The Honorable Daniel L. Herrmann
The Honorable Robert H. Wahl
The Honorable Charles M. Oberly, III
The Honorable John L. Sullivan
Lawrence M. Sullivan, Esquire
Warden Howard R. Young
Warden Elizabeth Neal-Hines
Michael E. McLaughlin
Joseph Paesani
Thomas Quinn
Nancy Nowak
All Senior Clerks, J.P. Criminal Courts
Files

IN THE COURT OF THE JUSTICES OF THE PEACE OF THE STATE OF DELAWARE IN AND FOR _____ New Castle ____ COUNTY

COURT NO. 18

SAMPLE	. COMMI	TMENT	SAMPLE
THE STATE OF DELAWAR	E _ COUNTY, ss.		
To MPCJF of said State and County:	Consta		PARTMENT OF CORRECTION
the Department of Correctio	n of New Castle	County the bo John Doe	ey and deliver into the custody of ody of
charged before said Justice o			
violation with of Section See	below Title	of the Delawa	re Code of 1953 as amended.
AND WHEREAS, by my ju	comme	ncing on thed	ay of A.D. 19
and ending on theday o	ofA.D. 19	_, and in default of	\$fine
and 5 costs shall ser day of(2	ve a term of _A.D. 19and endin AIL_REVIEW_IN_COUR	ig on theday of	commencing on theA.D. 19
			ond for appearance
in Cour	t of Common Pleas	- Date to be se	t for Preliminary Hearing
AND YOU, the said Depart your custody and <u>PAD</u> sa	ment of Correction, ar sfely keep, until <u>he</u>	e hereby required t	o receive the said defendant into ered by due course of law.
GIVEN under my hand an	d seal this <u>13th</u> day of	Varan	D. 19 84 Sum (SEAL) Istice of the Peace Norman & Barron
	/841 Theft /512 Consp.	\$1000. Sec \$1000. Sec	



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

NORMAN A BARRON CHIEF MADISTRATE

TELE=-ONE (302) 571-2465

POLICY DIRECTIVE 84-084 (SUPPLEMENT)

TO:

ALL JUSTICES OF THE

STATE OF DELAWARE

FROM:

NORMAN A. BARRON,

CHIEF MAGISTAATA

DATE: MAY 27, 1986

RE:

EXPANDED BAIL REVIEW (NEW CASTLE COUNTY ONLY)

By letter dated January 31, 1986, I wrote to Chief Justice Andrew D. Christie proposing an expansion in the bail review functions at Court No. 18 at Gander Hill. I wrote, in pertinent part, as follows:

- ". . . I seek your Honor's approval to expand the utilization of Court No. 18 in the areas which follow, all of which, I believe, fall within the parameters of the Judiciary Position Paper dated July 23, 1979, as supplemented by former Chief Justice Herrmann's letter to Governor duPont dated June 9, 1982:
- I. Assuming that any problems connected with the inter-court or intra-court flow of paperwork can be resolved. I am receptive to establishing procedures for the holding of prompt bail review hearings at Court No. 18 with regard to following two types of cases where the defendant has been detained for failure to make bail:
- misdemeanor traffic A. Criminal and occurring north of the Chesapeake and Delaware Canal where the defendant has elected the Court of Common Pleas as the trial forum; and

B. Criminal and traffic misdemeanor cases occurring north of the Chesapeake and Delaware Canal where the defendant has elected the Justice of the Peace Court as the trial forum.

Bail review is, apparently, working. Of 237 bail review hearings held at Court No. 18 during 1985, 65 defendants (27% of the total) were released from custody as a direct result thereof. Further expansion of bail review will likely result in additional early releases from our overcrowded correctional facilities without threat to the public safety."

By letter dated February 7, 1986, the Chief Justice endorsed the proposal in the following language:

"You have proposed to go forward with prompt bail review hearings at Court No. 18 where the defendant has been detained for failure to make bail in criminal and traffic misdemeanor cases occurring north of the Chesapeake and Delaware Canal where the defendant has elected the Court of Common Pleas or the Justice of the Peace Court as the trial forum. As I understand it, there were no such reviews in the past.

Since the present bail review procedure (now confined to felony cases) has resulted in the release of 27% of all persons for whom bail review was conducted, presumably without threat to public safety, the proposed program appears to be an admirable one especially when viewed in light of the problem of prison overcrowding. It seems logical that an extension of bail review is likely to further alleviate the crowding problem. The proposed program also falls squarely within paragraph III (3) of Chief Justice Herrmann's Judiciary Position Paper of July 11, 1979. Thus, it is deemed to be an appropriate program to implement at Gander Hill."

The Chief Justice was concerned, however, that the bail review program would not reach pretrial detentioners detained in prison facilities situated below the Chesapeake and Delaware Canal:
"It appears that the proceedings at Gander Hill result in a prompt and efficient early bail review which is beneficial to the accused and assists with the prison crowding problem. Please give me your recommendations as to how a corresponding

The proposed bail review expansion has gained the support and endorsement of the Sentencing Accountability Commission and the Criminal Justice Council because it offers a viable and realistic opportunity to relieve, without threat to the public safety, some of the pressure on the Department of Correction due to the overcrowding problem.

Based upon the foregoing, the following procedures are implemented for all New Castle County Justice of the Peace Courts where a defendant has been incarcerated for lack of bail, having been charged with any misdemeanor or traffic offense, whether or not the defendant has elected the Court of Common Pleas or the Justice of the Peace Court as the trial forum:

I. DEFENDANT ELECTS COURT OF COMMON PLEAS AS THE TRIAL FORUM

A. With regard to any misdemeanor or traffic offense where initial bail is set at Court Nos. 9, 10, 11, and 15 and where the defendant, a male, having elected the Court of Common Pleas as the trial forum, is incarcerated at the Multi-Purpose Criminal Justice Facility for failure to post bail for his next

^{1 (}Continued) bail review program could be made available to all persons wherever they are jailed. In this connection, I request that you consult with the Criminal Justice Council and with the various courts and agencies which would be involved." As a result of the above, the Criminal Justice Council undertaken the assignment of devising a procedure for Kent and Sussex Counties to effectuate a bail review program for all persons incarcerated for lack of bail. The Council is presently in the process of interviewing the applicable judicial criminal justice system personnel in order to work out the details to the satisfaction of the participants. Therefore, it expected that at some point in the near future, bail review procedures will be in place for all three Counties of the State.

scheduled court appearance, 2 it shall be standard procedure for the Justice of the Peace who initially set bail to continue the case for the next regularly scheduled session of Court No. 18 for the purpose of having a bail review hearing at said Court.

It shall further be standard procedure that the Justice of the Peace who is regularly scheduled at Court No. 18 shall, if requested, conduct said bail review hearing and shall thereafter schedule the case for a Court of Common Pleas 4 arraignment in the normal manner. The clerk at Court No. 18

An arraignment in the Court of Common Pleas.

The Court which holds the initial appearance should assign to the case a Justice of the Peace Court case number. paperwork which would normally be forwarded to the Court of Common Pleas, (i.e., the original copy of the warrant and affidavit, the Green Sheet, and a copy of the commitment papers) should be given to the law enforcement officer who transports the defendant to the Multi-Purpose Criminal Justice Facility. The law enforcement officer should be instructed to leave all paperwork with the Booking and Receiving personnel. Court 18 personnel will pick up from Booking and Receiving the necessary paperwork in the morning of the next regularly scheduled session of the Court. The commitment papers should indicate thereon that the case is continued for a bail review hearing at Court No. 18 on the next regularly scheduled date during which said Court is in operation. A sample commitment for a defendant subject to a bail review hearing as contemplated by this Policy Directive is attached hereto as Appendix A.

It may be that the Attorney General's Office, the Public Defender's Office and the Pretrial Services Office see no need for a bail review hearing. In other words, these agencies may agree with the amount of bail originally set. In such cases, the defendant will not have to appear before the Justice of the Peace assigned to Court No. 18. Instead, the clerk at Court No. 18 will simply forward the paperwork regarding the case to the Court of Common Pleas. When a bail review hearing is desired, the State, the defendant or the defendant's attorney, or the Pretrial Services Officers may move the Court, either orally or in writing, for such a hearing.

should ensure that the case documents are updated to reflect the 5 action taken at the bail review hearing.

where initial bail is set at Court Nos. 9, 10, 11, and 15 and where the defendant, a female, having elected the Court of Common Pleas as the trial forum, is incarcerated at the Women's Correctional Institution for failure to post bail for her next scheduled court appearance, it shall be standard procedure for the Justice of the Peace who initially set bail to continue the case for the next regularly scheduled session of Court No. 18 for the purpose of having a bail review hearing at said Court.

Should the defendant be released as a result of the bail review hearing, the Court will have to prepare a Bond Subpoena/Order To Appear form and a Release form. The original Release form goes to the correctional institution having custody of the defendant. A copy thereof, plus the original of the Bond And Subpoena/Order To Appear, the original copy of the warrant affidavit, the Green Sheet, and a copy of the commitment papers all are forwarded to the Court of Common Pleas. the defendant continue in the custody of the Department of Correction following the bail review hearing, the clerk will add the new bail information to the bottom of the Court's copy of the commitment papers and the Magistrate will attest to this updated information. The clerk will then forward the original copy of the warrant and affidavit, the Green Sheet, and the updated copy of the commitment papers to the Court of Common Pleas.

An arraignment in the Court of Common Pleas.

The Court which holds the initial appearance should assign to the case a Justice of the Peace Court case number. All paperwork which would normally be fowarded to the Court of Common Pleas (i.e., the original copy of the warrant and affidavit, the Green Sheet, and a copy of the commitment papers) should be hand-carried to Court No. 18 by a Justice of the Peace Constable on the next regularly scheduled work day following the initial appearance. The original commitment papers should be given to the law enforcement officer who transports the female detained to WCI. Said law enforcement officer should leave the original

It shall further be standard procedure that the Justice of the Peace who is regularly scheduled at Court No. 18 shall, if requested, conduct said bail review hearing and shall thereafter schedule the case for an arraignment in the Court of 8 Common Pleas in the normal manner. The clerk at Court No. 18 should ensure that the case documents are updated to reflect the action taken at the bail review hearing.

* * * * *

II. DEFENDANT ELECTS THE JUSTICE OF THE PEACE COURT AS THE TRIAL FORUM

A. With regard to any misdemeanor or traffic offense where initial bail is set at Court Nos. 9, 10, 11, and 15 and where the defendant, a male, having elected the Justice of the Peace Court as the trial forum, is incarcerated at the Multi-

^{7 (}Continued)

copy of the commitment papers at WCI when he turns custody of the female detainee over to WCI. The commitment papers should indicate thereon that the case is continued for a bail review hearing at Court No. 18 on the next regularly scheduled date during which said Court is in operation. A sample commitment for a defendant subject to a bail review hearing as contemplated by this Policy Directive is attached hereto as Appendix A. The Department of Correction has agreed to ensure that the female detainee is transported to Court No. 18 for the bail review hearing, if requested.

⁸ | See footnote 4.

⁹See footnote 5. Of course, Department of Correction personnel will be responsible for transporting the female detainee back to WCI should she remain in the custody of said Department.

Purpose Criminal Justice Facility for failure to post bail for 10 his next scheduled court appearance, it shall be standard procedure for the Justice of the Peace who initially set the trial date and who set bail to continue the case for the next regularly scheduled session of Court No. 18 for the purpose of 11 having a bail review hearing at said Court.

It shall further be standard procedure that the Justice of the Peace who is regularly scheduled at Court No. 18 shall, if requested, conduct said bail review hearing and shall

Trial in the Justice of the Peace Court in which the initial appearance/arraignment was held, unless the initial appearance/arraignment was held at Court No. 18, in which case the trial will be scheduled to be heard at the New Castle County Justice of the Peace Criminal/Traffic Court closest to the location of the alleged offense.

¹¹ The Court which holds the initial appearance should assign to the case a Justice of the Peace Court case number. All paperwork which would normally be retained by the trial court, (i.e., the original copy of the warrant and affidavit, the Green Sheet, the Jurisdictional Form, and a copy of the commitment papers) should be given to the law enforcement officer, as well as the original copy of the Commitment Order, who transports the defendant to the Multi-Purpose Criminal Justice Facility. The law enforcement officer should be instructed to leave all of the above-referenced paperwork with the Booking and Receiving personnel. Court No. 18 personnel will pick up from Booking and Receiving the necessary paperwork in the morning of the next regularly scheduled session of the Court. The commitment papers should indicate thereon that the case is continued for a bail review hearing at Court No. 18 on the next regularly scheduled date during which said Court is in operation. A sample commitment for a defendant subject to a bail review hearing as contemplated by this Policy Directive is attached hereto as Appendix B.

thereafter continue the case to its scheduled trial date in the applicable Justice of the Peace Court, or, if the defendant has changed his election of the trial forum, to an arraignment date 12 in the Court of Common Pleas. The clerk at Court No. 18 should ensure that the case documents are updated to reflect the action 13 taken at the bail review hearing.

It may be that the Attorney General's Office, the Public Defender's Office and the Pretrial Services Office see no need for a bail review hearing. In other words, these agencies may agree with the amount of bail originally set. In such cases, the defendant will not have to appear before the Justice of the Peace assigned to Court No. 18. Instead, the clerk at Court No. 18 will simply return the paperwork regarding the case to the applicable Justice of the Peace Court, or, if the defendant has changed his election of the trial forum, will forward the paperwork to the Court of Common Pleas for an arraignment in said Court. When a bail review hearing is desired, the State, the defendant, the defendant's attorney, or the Pretrial Services Officer may move the court, either orally or in writing, for such a hearing.

¹³ Should the defendant be released as a result of the bail review hearing, the Court will have to prepare a Bond Subpoena/Order To Appear form and a Release form. The original Release form goes to the correctional institution having custody of the defendant. A copy thereof, plus the original of the Bond And Subpoena/Order To Appear, a copy of the warrant affidavit, a copy of the Green Sheet, a copy of the commitment papers and a copy of the Jurisdictional Form all are returned to the applicable Justice of the Peace Court, the defendant has changed his election of the trial forum to the Court of Common Pleas, in which case an arraignment date should be set for said Court in accordance with normal procedures and the aforementioned paperwork would be fowarded to said Court. Should the defendant continue in the custody of the Department of Correction following the bail review hearing, the clerk will add the new bail information to the bottom of the Court's copy of the commitment papers and the Magistrate The clerk will then will attest to this updated information. forward copies of the warrant and affidavit, the Green Sheet, the Jurisdictional Form and the updated copy of the commitment papers to the originating Court, unless the defendant changed his election of the trial forum to the Court of Common Pleas, in which case the aforementioned paperwork will forwarded to said Court which will schedule an arraignment date for the defendant.

B. With regard to any misdemeanor or traffic offense where initial bail is set at Court Nos. 9, 10, 11, and 15 and where the defendant, a female, having elected the Justice of the Peace Court as the trial forum, is incarcerated at the Women's Correctional Institution for failure to post bail for her next 14 scheduled court appearance, it shall be standard procedure for the Justice of the Peace who initially set the trial date and who set bail to continue the case for the next regularly scheduled session of Court No. 18 for the purpose of having a bail review 15 hearing at said Court.

Trial in the Justice of the Peace Court in which the initial appearance/arraignment was held, unless the initial appearance/arraignment was held at Court No. 18, in which case the trial will be scheduled to be heard at the New Castle County Justice of the Peace Criminal/Traffic Court closest to the location of the alleged offense.

¹⁵ Court which holds the initial appearance should assign to The the case a Justice of the Peace Court case number. All paperwork which would normally be retained by the trial Court, (i.e., the original copy of the warrant and affidavit, the Green Sheet, the Jurisdictional Form, and a copy of the commitment papers) should be hand-carried to Court No. 18 by a Justice of the Peace Constable on the next regularly scheduled work day following the initial appearance. The original commitment papers should be given to the law enforcement officer who transports the female detainee to WCI. Said law enforcement officer should leave the original copy of the commitment papers at WCI when he turns custody of the female detainee over to WCI. The commitment papers should indicate thereon that the case is continued for a bail review hearing at Court No. 18 on the next regularly scheduled date during which said Court is in operation. A sample commitment for a defendant subject to a bail review hearing as contemplated by this Policy Directive is attached hereto as Appendix B. Department of Correction has agreed to ensure that the female detainee is transported to Court No. 18 for the bail review hearing, if requested.

Justice of the Peace who is regularly scheduled at Court No. 18 shall, if requested, conduct said bail review hearing and shall thereafter continue the case to its scheduled trial date in the applicable Justice of the Peace Court, or, if the defendant has changed her election of the trial forum, to an arraignment date 16 in the Court of Common Pleas. The clerk of Court No. 18 should should ensure that the case documents are updated to reflect the 17 action taken at the bail review hearing.

* * * * *

III. OTHER CONSIDERATIONS

A. Sometimes, the initial appearance/arraignment is held at Court No. 18 as where the police bring the arrested misdemeanant to Gander Hill for security reasons. If this is the case, a bail review hearing should still be scheduled for the next session of the Court if the defendant is incarcerated for failure to post bail whether the defendant elects the Court of Common Pleas or the Justice of the Peace Court as the trial forum. In the latter case, after the bail review hearing, all paperwork and case documents should be forwarded by the Justice of the Peace Court closest to the location of the alleged offense where,

See footnote 12.

¹⁷See footnote 13. Of course, Department of Correction personnel will be responsible for transporting the female detainee back to WCI should she remain in the custody of said Department.

upon receipt, a case number should be assigned to the case and the case should be scheduled for trial, with notice going to all parties and witnesses.

- B. Many times, after an Assistant Public Defender consults with the defendant whose bail review is scheduled for Court No. 18, a plea bargain will become a good possibility. On a pilot project basis, the Justice of the Peace should take any plea to which the Justice of the Peace Courts have jurisdiction to hear, try and finally determine, whenever the Judge is satisfied that:
- l. The defendant has waived his election to 18 have the case heard in the Court of Common Pleas. If the defendant had previously elected the Court of Common Pleas as the trial forum but now moves to withdraw that election, a new Jurisdictional Form must be executed and attested to by the presiding Judge, the defendant and the Assistant Public Defender, should the presiding Judge grant said motion; and,
- 2. The defendant knowingly, voluntarily, and intelligently enters the plea in accordance with the standards set forth in State v. Casto, Del.Supr., 375 A.2d 444 (1977).
- C. Any case originating in Court No. 18 where a final disposition is had in said Court should be assigned a Court No. 18 case number and all fines and costs should be payable to said Court for accounting and disbursement purposes. Where the case originated in another Justice of the Peace Court, that Court and not Court No. 18 will be responsible for the collection of

¹⁸See: Shoemaker v. State, Del.Supr., 375 A.2d 431 (1977).

all fines and costs whenever a final disposition is had in Court No. 18, except if all fines and costs are paid at the time sentence is imposed at Court No. 18, in which case Court No. 18 will accept the money, deposit it in its account and foward a check payable to the originating Court in the amount collected. The originating Court will then account for and disburse said fines and costs as if said Court had received the monies directly.

- D. No trials on the issue of guilt will be held at Court No. 18.
- E. With regard to all bail review hearings and final dispositions entered at Court No. 18, it shall be standard procedure for the Clerk of the Court of Court No. 18 to maintain a record of all such hearings and dispositions and the actions taken at said hearings.
- F. The Magistrates conducting bail review hearings shall utilize and consider the Bail Guidelines as previously \$19\$ promulgated by this Office.

The additional case dispositional functions anticipated to evolve once this new Policy Directive is implemented coincides with the purposes for which the Multi-Purpose Criminal Justice Facility was originally intended. As I wrote to the Chief Justice on January 31, 1986:

"I believe that Gander Hill has yet to achieve its intended status as a criminal justice center. I note that SENTAC allocated funding for 9 additional pre-trial services officers in order

or.

Legal Memorandum 85-138, dated November 12, 1985, Bail Guideline Recommendations.

expand early offender risk and to assessments. Once the personnel filling these positions are in place, there is no reason why there could not be greater use of Gander Hill in the areas of case screening and case review. Should such activity result in a significantly higher number of plea offers being made to charges over which Justices of the Peace have jurisdiction to finally determine, such cases could be disposed Such dispositions could of at Court No. 18. include pleas to misdemeanors, Attorney General Appropriate conditions of etc. probations, probation could be set with supervision perhaps given to the Pre-trial Services Office. In any event, your Honor's approval is sought for this anticipated expansion in the taking of pleas once these pre-trial services officers are on board, at least under a pilot program basis."

The Chief Justice endorsed this proposal on a pilot program basis. In his reply to me of February 7, 1986, Chief Justice Christie wrote:

"You propose that once the 9 additional pretrial services officers are in place, Gander Hill could see an increase in case screening and case review which might result in a higher number of plea offers being made in cases which Justices the Peace have jurisdiction to finally of determine -- cases which could be disposed of at To the extent these cases could be Court 18. disposed of by guilty pleas, taken in conformity with Shoemaker v. State, Del.Supr., 375 A.2d 431 (1977), and State v. Castro, Del.Supr., 375 A.2d 444 (1977), this program is permissible as a pilot program under paragraph (3) of Chief Justice Herrmann's letter of June 9, 1982 to Governor DuPont. I note, however, that when pleas of not quilty are entered, the trial must be scheduled in another Justice of the Peace Court in a regular and ordinary setting."

The Chief Justice and I are confident that as we go forward with these projects, an increase in the effective utilization of Court No. 18 at Gander Hill will result. We anticipate that this increased utilization will result in a reduction of Delaware's pretrial detention population. Even with bail guidelines in place, the pretrial detention population has

continued on its upward trend. In December, 1985, this population was 430 strong. Today, it exceeds 500 persons, all of whom are presumed innocent and who remain in prison not for having been convicted of committing an offense but rather for failure to meet the monetary conditions of pretrial release. The concentrated effort of bail review of this population is therefore both fair and appropriate.

While it is essential to have the support of the Attorney General, the Public Defender, the Pretrial Services Office and the Department of Correction in order to achieve the desired results expressed herein, it is recognized that personnel shortages will inhibit these efforts. It is noted that the Sentencing Accountability Commission has recommended increased funding for the Justice of the Peace Courts, the Attorney General's Office, and the Public Defender's Office in order to fund eight (8) new positions for these three (3) agencies. However, since Court No. 18 presently has an additional part-time clerk, the pressing need for bail reviews should now commence to the extent possible. It is understood, however, that this bail review effort cannot be implemented to its fullest extent without additional resources.

This Policy Directive, which supplements Policy Directive 84-084 (Revised), dated July 15, 1985, <u>Bail Review (New Castle County Only)</u>, shall become effective on Monday, June 16, 1986, and shall continue thereafter until further notice.

· NAB:pn

Attachments (2)

The Honorable Andrew D. Christie
The Honorable Robert H. Wahl
The Honorable Charles M. Oberly, III
The Honorable John L. Sullivan
The Honorable Lawrence M. Sullivan
Warden Howard R. Young
Warden Elizabeth Neal-Hines
Michael E. McLaughlin
Anthony Flynn, Esquire
Joseph Paesani
Thomas Quinn
All J.P. Clerks of the Court
File (11-P84(S) & P84(S)/2)

IN THE COURT OF THE JUSTICES OF THE PEACE OF THE STATE OF DELAWARE IN AND FOR _____ New Castle _____ COUNTY

COURT NO. __18___

COMMITMENT

APPENDIX B

New Castle	LAWARE C	OUNTY, ss.		
of said State and Con THIS IS TO COM!	unty: MAND YOU	, the said Constab	able. And to the DEPARTN le, forthwith to convey and County the body of .	deliver into the rustody of
violation with of Sec XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	tion see be	elow_Title	of the Delaware Cod	e of 1953 as amended.
and ending on the costs day of (BAIL Ri	day of shall serveA. EVIEW IN O	A.D. 19 a term of D. 19 and endi DURT NO. 18 ON	encing on theday of , and in default of \$ ng on theday of MAY 2, 1986)	commencing on the
No. 11 :	or trial of Department	on May 14, 1986 at of Correction, a	secured bond for appear 5. re hereby required to receive be thence delivered b	ve the said defendant into
GIVEN under my	hand and se	al this <u>lst</u> day o	of May A.D. 19 86	(SEAL)
JP11-86-05-0001 0002		Theft-M Consp. 3rd	\$500 Secured	e reace

IN THE COURT OF THE JUSTICES OF THE PEACE OF THE STATE OF DELAWARE IN AND FOR _____ New Castle ____ COUNTY

COURT NO. 18

COMMITMENT

APPENDIX A

THE STAT		LAWAREC	MINTV EE			
	<u>castre</u>		JUN 1 1, 55.			
То	ME	CUF	Const	able. And to the DEPA	RTMENT OF	CORRECTION
of said Sta THIS IS the Depart	TO COM!	MAND YOU.	the said Constab	e, forthwith to convey a	and deliver in of	to the custody of an Doe
		Justice of th	e Peace Court No	o. 11 on oath by Jo	ones/DSP	
with	XXXXXX			of the Delaware		
AND WE	IEREAS,	by my judgn	nent, the said def	endant is to serve a ma	andatory term	
and ending	on the	day of	, comme	encing on theday _, and in default of \$	01	 fine
and ending	costs	shall serve :	term of		com	mencing on the
day of	(BAIL RI	EVIEW IN CO	D. 19and endi	ng on theday of MAY 2, 1986)		A.D. 19
	Committe	ed in defa	ult of \$1,000 :	secured bond for ap	pearance in	Court
				for arraignment.		
				re hereby required to r be thence deliver		
GIVEN u	nder my	hand and se	al this <u>lst</u> day o	f <u>Mav</u> A D.	19 <u>86</u> .	
			_			(SEAL)
				J.stice	e of the Peace	
JP11-86-0	5-0001	11/841		\$500 Secured		
	0002	11/511	Consp. 3rd	\$500 Secured		