RESPONSE TO THE

JOINT STUDY OF THE DELAWARE COURTS

CONDUCTED BY THE

DELAWARE STATE BAR ASSOCIATION

AND THE

DELAWARE CHAPTER OF THE

AMERICAN COLLEGE OF TRIAL LAWYERS

The Delaware Supreme Court

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I. OVERVIEW

A. The Delaware Judiciary's Tradition of Looking Forward

The Delaware Judiciary takes its duties to the people of Delaware seriously. We recognize that, as in all states, the extent to which the promise of our nation as one committed to the rule of law and to the recognition that all of us are equal and have certain fundamental rights that deserve protection depends on the quality of our Judiciary. We also recognize that the Delaware Judiciary has a special importance in Delaware because our state's most important industry is the formation of business entities and the provision of the legal services these entities and their various constituencies need.

As with any organization, the Delaware Judiciary must retain its competitive edge by earning it and not resting on past achievements and recognition. Indeed, the major reason the Delaware Judiciary has continued to rank so highly on both a national and international level has been its willingness to reflect on its operations and practices, and willingness to innovate and reform where that better enables our courts to decide the cases before them expertly and efficiently. When unmet needs emerge, the Delaware Judiciary has tried to fill the gap. When technology has promise, we have tried to embrace its potential to help us help the public better.

Consistent with this tradition of being forward-looking, the Delaware Judiciary has also recognized that one of the best ways to ensure that it remains well-

positioned to do its duty with the highest quality is to be open to constructive input, particularly from members of the community who are most affected by the Judiciary. We have long done this by trying to engage the Bar, representatives of community organizations, and the public more generally in the governance of key arms of court such as the Board on Professional Responsibility, the Court on the Judiciary, and the Lawyers' Fund for Client Protection, the rules committees of the various courts, and special initiatives to look at particular problems or to make needed improvements. This interactive approach is vital to guaranteeing that judges hear about ways in which they and their courts can do better.

But, although these ongoing collaborative efforts are critical and must continue, there is also a value to periodically doing a more comprehensive evaluation of the Judiciary, how it is doing, and how it might do better. The last such comprehensive evaluation was done in the 20th century, as part of the Commission on Delaware Courts 2000 initiative, and that evaluation produced a number of valuable recommendations that resulted in important improvements in the performance of the Judiciary. But, the Courts 2000 initiative was completed in 1994.

B. The Joint Study of the Delaware Courts Conducted by the Delaware State Bar Association and the Delaware Chapter of the American College of Trial Lawyers

In 2014, the Delaware Supreme Court commissioned the Delaware Chapter of the American College of Trial Lawyers to conduct a comprehensive, consumer-

driven study of the Delaware Judiciary, its practices, and potential ways to make a strong Judiciary even stronger and to position it to handle the challenges of the future. The ACTL was well positioned to do this, because membership in the organization is restricted to only trial lawyers meeting the highest standards of professional excellence and expertise.

Recognizing that the ACTL does not include practitioners from some very important segments of the Bar, such as those who practice Administrative Law and Family Law, the ACTL joined efforts with the Delaware State Bar Association to conduct the study. Leading senior lawyers from all practice areas stepped up to help lead the study. In the Delaware tradition, talented junior lawyers volunteered to do research and assist the study leaders as reporters.

To ensure that the ACTL/DSBA had support, the Administrative Office of the Courts provided professional support with the aid of the various trial courts. Importantly, the AOC leveraged its relationships nationally to give the ACTL/DSBA access to advice from the National Center for State Courts on the study design and continuing feedback throughout the process.

Consistent with its mandate to have unvarnished input, the ACTL/DSBA developed an extensive survey covering key issues in each area of judicial jurisdiction. Confidential interviews were conducted with more than 100 lawyers, judges, and citizens with perspectives on key subject matter areas. As important, the

broader consumer and public base was given an opportunity to have their voices heard. To that end, the survey was broadly distributed and the public was urged to fill it out. And many did, with more than 1,300 surveys submitted. After receiving, distilling, and reflecting upon this valuable input, the ACTL/DSBA issued their Joint Study of the Delaware Courts in May 2016. Since that time, the Delaware Judiciary has engaged in an initial period of consideration of the Study's recommendations, with the goal of determining which of the recommendations should be immediately adopted and identifying those more far-reaching recommendations that require further study and refinement before implementation. Attached are the initial responses and action plans prepared by the various courts, with help from the AOC, in response to the Study's recommendations.

This action plan sets forth the key recommendations in the Study and other improvement initiatives that are most worthy of serious action. It also addresses cross-court issues that require cooperation among various courts and issues that can be addressed by a single court. Consistent with the intuition that progress is best made when the constituents of an organization are full partners, the action plan contemplates that distinguished members of the ACTL/DSBA will help lead the path from a Study recommendation to implemented public policy.

C. The Themes of the Study

Before moving to the specifics of the action plan, it is worth noting that a few larger themes emerged from the Study that should be kept in mind by us as a Judiciary in all our ongoing efforts.

These themes include:

1. The importance of communication

When the litigants who use the system do not understand why they are required to do something, they are less likely to accept it. And if the courts are not clear on the "why" themselves, we are more likely to persist in retaining processes and practices that might no longer make sense or be optimal. This is also true of judicial employees, who naturally perform better and with more enthusiasm when they understand the reasons innovation and change are essential to serving the public better and also to improving the employees' own quality of life. As important, sometimes there are good reasons for a court to require certain conduct, but if the litigants do not know those reasons, then compliance can be frustrating. By being clear about the why, a court will tend to ask for only what is necessary, and it will also reduce the frustration level of litigants by promoting mutual understanding.

2. Consistency and predictability may be boring in certain social contexts, but are vital to doing justice

The independence required of our judiciary limits opportunities for feedback. Attorneys are naturally reluctant to provide suggestions for improvement about

judicial scheduling practices, procedural demands, and other court operations. A court system staffed by dozens of different judges who sit in different counties with different practices can create inefficiencies. Lawyers and litigants understand if procedures must vary by case type, but standardization of repetitive court processes, such as the expected path to trial, the form of pretrial orders, and the need for starting and ending hearings on time, would enhance the predictability and efficiency of our courts not just for the lawyers and litigants, but for our statewide courts as well. One of the reasons the Delaware Judiciary has been so successful is its open attitude toward input and willingness to examine ways to make an excellent system better, and the Study identifies some productive areas for examination where greater consistency could help.

3. Becoming single, consistent courts of a state, not individual courts of particular counties

The individual counties in our small state take pride in themselves and their own traditions. But, in a globalizing world, when many of the lawyers practice in all or more than one of the counties, attorneys and litigants deserve to have the best practice implemented consistently in similar kinds of cases. Litigants and lawyers can understand when there is a different practice in a particular jurisdiction because of a rational reason that is explained, but, in most instances, a proceeding should be handled by our courts in a manner that does not vary by county, but by application of the best approach that the court as a whole identifies. Furthermore, given

advances in technology and limited public resources, litigants and lawyers know that employees in one county can be assigned work to help address backlogs or caseload demands in another county, and that the same is true for judges. They and the public expect the Delaware Judiciary to move toward modern management practices where court resources are deployed in a coordinated, team approach that recognizes that each court is a court of the State of Delaware, not three uncoordinated county units.

4. Making sure the jurisdiction of the various courts is as clear and up-to-date as possible

Litigants are also frustrated when jurisdictional lines are unclear, and they are uncertain which court to litigate in. When cases end up turning on outdated technical issues—Did you file the correct writ? Does the mirror image rule bar an appeal?—or taking too long, the quality of justice could suffer in a genuine way. And for courts themselves, litigation over jurisdiction can result in wasted judicial time, in an era when resources are scarce and other litigants need that time. Making sure that there is not overlap and that jurisdiction is allocated to the court best equipped to handle particular cases in a cost-effective manner proportional to what is at stake is vital. If a litigant's claim is $60,000, the path to trial for that case must reflect that reality, lest the costs of seeking justice eat up any potential for recovery. It has been many years since the General Assembly, with the assistance of the Bench and Bar, have taken a fresh look at jurisdiction, and in some cases, such as administrative law,

nearly fifty years. The Study, both explicitly and implicitly, highlights the real costs to our citizens of unclear jurisdictional statutes.

5. Promoting good practices in litigation

In some cases, the Study recommends that formal rules be adopted to address certain problems. But a larger theme has emerged that is consistent with the earlier themes: the utility of guidance through court-specific practice guidelines that, although not binding, provide practitioners with solid advice about how recurring situations should typically be handled. This guidance is especially valuable if it results from an open bench-bar discussion about what is most efficient and if the judges are willing to pull together and to adhere to common approaches. By this means, practice can be more efficient, of more consistent quality, and, as important, stress will be reduced for litigants and more collegial practice will be encouraged. Similarly, the desire for consistency should also be reflected in the evidentiary and procedural rules that many of the trial courts share to guide litigants from complaint filing to case termination.

6. The importance of technology and data sharing

The Study reflects the importance of technology in today's litigation world. Practitioners in courts with the File & ServeXpress® e-filing system are generally pleased with the system. But more courts need this system and the Judiciary has been working aggressively to accomplish this objective. Even in courts with the File

& ServeXpress® system, there is room for improvement. E-filing requirements can be difficult to understand. There needs to be improved communication between those who e-file and those who accept e-filings to improve an already robust system. Many courtrooms are equipped with useful technology for presentation of a case. But practitioners can't take advantage of courtroom technology they aren't aware of, or don't know how to ask for in a timely manner. The availability of this technology and how to ask for it must be better publicized.

Moreover, the Judiciary's electronic filing and case management systems need to be able to communicate and share data with our agency partners in the other branches of government, such as the Department of Justice, the Office of Defense Services, the Department of Correction, and DELJIS, to name a few, in order to eliminate the redundant entry of important information into different electronic systems that are unable to communicate and to improve the speed and efficiency in making current information available to eligible users. E-filing in criminal cases in particular has the potential to be transformational. All users, from police officers to probation and parole officers to presentence officers, will be able to file electronically. All information will be entered in a form that is usable down the line and will be able to populate the agency-specific information systems of key justice system partners like the Department of Correction. Because criminal cases often go from the Justice of the Peace Court to the Court of Common Pleas to the Superior

Court to the Supreme Court, e-filing will ensure that all courts and litigants have constant, reliable access to all parts of the docket at all times.

D. Outline of the Study's Recommendations

With these key themes in mind, the action plan will address the Study's recommendations in the following manner. First, the plan will highlight some of the most salient, cross-court issues and the plan for addressing them. Second, the plan will address court-specific issues, the extent to which they have already been addressed, and the plan for addressing recommendations requiring further consideration. In the course of doing so, the plan will also identify certain areas that the Judiciary does not believe are worthy of consideration at this time. That identification does not rule out their pursuit in the future or further discussion about them with the Bar and public, but reflects a candid assessment that, given the resource constraints facing the Judiciary and a consideration of the recommendation, the Judiciary does not deem it advisable at this time to further study a recommendation. Choices of that kind were also necessary because, as will be seen, the Judiciary is committed to working with the ACTL/DSBA on many of the Study's important recommendations, and to do this effectively, a targeted action plan is required.

II. CROSS-COURT ISSUES REQUIRING INTER-COURT COOPERATION AND CONSIDERATION

A. Taking A Fresh Look At the Jurisdiction of the Courts

We agree that it is again time for a comprehensive, non-time pressured look at this question, to assure that cases are assigned rationally, that there is no inefficient overlap or confusion, and that cases are assigned to the court best equipped to handle them expertly and cost-effectively. An administrative order will create the Jurisdiction Improvement Committee to report on this important issue, and to develop and recommend to the General Assembly specific legislative and other changes necessary to meet the goals identified by the Study.

B. Improving the Fairness, Consistency, and Timeliness of Our System of Administrative Law

The Study found that Delaware's system of administrative law has grown from one solidly based on consistent application of the Administrative Procedures Act to a patchwork where each regulatory statute and body commonly has its own administrative law. Hearing officer work is spread inconsistently among various state officers and Deputy Attorneys General, and many of the hearing officers have strong, day-to-day ties to the administrative agency that is often a contending party in the cases the hearing officer helps adjudicate.

Reflective of this lack of consistency, jurisdiction over administrative law appeals is not allocated in a predictable way in the Judiciary, and this, along with the

statutory patchwork, makes it difficult for consistent and predictable results to be achieved. For citizens, justice can be hard to achieve when too many cases turn on technicalities rather than the merits, because the law is unclear. For business, the length of the administrative process and its lack of clarity can discourage job creation and growth in our state. And in important areas like land use and landlord tenant disputes, many of the same problems exist.

C. Reducing Stress and Improving Accountability in the Handling and Scheduling of Criminal Cases

The Study notes various ways in which lawyers, judges, and other key professionals such as correctional officers and treatment providers are under stress because of the complexity of many criminal cases, the high volumes, and evolving issues like greater electronic and video evidence. Because of the high volume of cases, lawyers and probation and parole officers are sometimes required to be in several courtrooms with different judges in one day. The already stressful task of doing these jobs is compounded by double and triple booking. This is true for the judges themselves. Although there is no way to eliminate this stress entirely, the Study recommends several ways to try to do better. The AOC procured a grant from the State Justice Institute to help improve criminal scheduling, and the Judiciary is committed to working with its partners in that effort.

Among the paths forward include:

1. Coordinating the work of the key problem solving courts at the adult level to move toward one integrated "Treatment Court" with consistent standards and procedures

The problem solving courts are all well-intentioned. But as both the Study and also the report of the Criminal Justice Council on the Judiciary identified, some have evolved without the development of consistent standards, benchbooks, and scheduling practices that allow key partners like attorneys, treatment providers, and correctional officers to spend one day in court, and the rest working with their clients. Practices have varied across courts and across counties that could be improved through consistency and consideration of the data and results now available because of the much greater experience our state and our national colleagues have in operating problem solving courts. Treatment approaches have not followed best practices in all cases. To build on what works, the Superior Court and the Court of Common Pleas have joined forces to cooperate in a long-term effort to integrate the work of the Drug, Mental Health, and Veterans Treatment Courts, establishing consistent criteria for eligibility and for case management and treatment, and pooling the efforts of the judicial officers in each court, without regard to artificial jurisdictional lines. This forward-thinking vision was embraced by the courts themselves, and the AOC has worked with them to procure a large grant from the Bureau of Justice Assistance to help make this vision a reality. An interim

administrative order cross-assigning judges as the initial step in this direction was signed on April 24, 2017.

Furthermore, the Criminal Justice Council of the Judiciary recognized the need to also do better in the important areas of re-entry and in creating a consolidated treatment court. The grant will help with that. Likewise, there is considerable interest within the Judiciary, criminal justice agencies, and the community in general in considering the creation of a "community" court that involves existing trial courts, executive branch agencies, service providers, and community organizations working together to address a series of case types in a manner designed to enhance procedural fairness, community safety, and opportunities for litigants for better access to the help they need. By way of example, a community court approach could enable more chances for offenders committing minor offenses to serve sentences that require them to give back to the community they have injured and to provide outcomes that make both the offender and victim feel justice was done. Likewise, community court models often facilitate access to justice, by providing more convenient opportunities for assistance to pro se litigants, access to service providers, and chances for community organizations, police, and other stakeholders to engage with their fellow community members. Likewise, the Study recommended moving the Truancy Court to the Family Court to allow for the court that has the most resources and overall relationship with the litigants' situation to be the primary focal point. As part of the

Jurisdiction Improvement Committee's work, that recommendation will be studied jointly by the Family Court and the Justice of the Peace Court because a cooperative approach might best utilize scarce resources and provide these vulnerable litigants and their families the best assistance.

2. Improving case management and information sharing between the courts and system providers

The Judiciary has already been working aggressively to accomplish this objective. The Judiciary has established a goal to extend the File & ServeXpress® system to all of its civil caseload by the end of 2017. After that, the goal is to implement e-filing in criminal cases by the end of 2018.

The implementation of e-filing is vital to information sharing. It is inefficient to recreate filings by re-entering them after filing in paper form and loading them into case management systems. E-filing will allow for easy flow of information because the initial filer will file in a manner that populates a high-quality e-filing system that works in concert with more specific case management systems. When a police or correctional officer makes an e-filing, that filing will be docketed and archived in a manner that is accessible to all users eligible to work with that document.

To make sure that the advantages of e-filing are seized, a group of judges, Deputy Attorneys General, public defenders, correctional officers, youth rehabilitation officers, and professionals from SENTAC and DELJIS are working

on model forms for sentencing orders, probation and parole reports, and presentence reports. By this means, all users, including judges and the correctional professionals who must implement the sentences, will have more information about the cases and the offenders.

3. Expanding courtroom capacity and information flow about computer technology

Some of the stress in the criminal case load, especially in New Castle County, is due to the need for more courtrooms capable of handling big jury trials. Through an innovative approach, the Judiciary has identified a way to use its own resources to build out the seventh floor of the New Castle County courthouse to expand jury courtroom capacity. We await sign-off from the Budget Director and Controller General. The new courtrooms would be available for cooperative use by the various trial courts, and designed to be capable of handling large calendars and larger trials.

Consistent with the information sharing theme, it also became apparent during the Study, and in its wake, that many lawyers, including ones in the Department of Justice, were not aware of the technological capacities of the courtrooms in the New Castle County courthouse; for example, whether a specific courtroom had the technology to display evidence from a police body camera. In fact, the New Castle County courthouse is well equipped with technology to handle almost any situation, but that is apparently not as widely known as it should be. To improve the rational use of courtrooms and their technology, and reduce same-day stress, a webpage is

being developed that will clearly identify the available courtrooms in the New Castle County courthouse, and both their physical and technological capacities. This will enable courts to work together to share space more effectively and more rationally, and to allow practitioners to know what is available and to provide a process for parties to secure the kind of courtroom they need in a timely, non-last-minute manner. This should not only improve the quality of justice, but provide needed stress relief, not just to practitioners, but to judicial staff who are too often subject to last-minute demands that could have easily been the subject of an earlier, orderly request.

4. Creating an e-filing users group to help lawyers, paralegals, legal secretaries, other filers, and court staff work together to improve the ease of use of the e-filing system and to reduce stress and errors

By moving toward a uniform, high-quality e-filing system for all cases, civil and criminal, the Judiciary hopes to make it easier for all filers to file and retrieve important case information. But, issues will invariably arise, glitches will occur, and there will be opportunities for streamlining and improvement. The best way to address these effectively and to make the lives of all concerned less stressful is to work together. To that end, the presiding judges of the trial courts have agreed to create a working group, in consultation with the Delaware Paralegal Association, the Bar and other groups that make regular filings, to provide a forum for working on issues of common concern. The expectation is for the working group to meet at least

quarterly, and for information to be shared statewide to make sure that problems are resolved promptly and consistently, and needed improvements can be implemented.

D. Improving the Consistency of Procedural Practices

This was a recommendation that permeated the Study, and was made in reference to virtually all courts, in one form or another. For that reason, we have treated it as a cross-court issue.

Courts' specific plans for action include:

1. The Court of Chancery

The Study recognized that the Court of Chancery has guidelines and operating procedures that provide helpful guidance to litigants in a number of cases. But the Study identified two key areas where practitioners felt that more guidance and consistency would be helpful. One was in the difficult area of motions to expedite. Because they are, by definition, very fast moving and the degree of speed can vary depending on the exigency, the Court of Chancery believes it is difficult to embody in a firm rule expectations about when an answer should be filed or if the court will act before one. But, the Court recognizes that motions to expedite have important effects on the responding party, and that attempting to formulate some better guidance about recurring scenarios would benefit the Court, and better ensure that litigants are treated fairly. Likewise, a concern has risen about whether different members of the Court have different expectations for what should be included in a

pretrial stipulation, and in particular the extent to which parties should have to try to stipulate to facts that closely bear on the merits of the underlying dispute. The Court is willing to engage in good faith on these issues with its Rules Committee, with the goal of making some productive progress on these difficult issues, and the Chancellor has directed the Rules Committee to report back on them.

2. The Superior Court

The Study urged that the Superior Court consider making more uniform its civil case management practices, and adopting consistent approaches to key issues such as the form of pretrial orders, discovery schedules, motion practice and the like. The Superior Court Rules Committee, which includes ACTL members, will address these issues and make recommendations to the Superior Court about consistent and uniform approaches at each phase of a case.

3. The Family Court

The Study recommended that the Family Court implement more assertive pretrial and case management practices and that these practices be employed on a consistent statewide basis. Consistent with the desire for more consistency in quality and expectations, the Study also recommended that certain commonly used forms and orders be considered afresh and that model forms be developed for consistent use statewide. The Chief Judge of Family Court has directed that the Family Court Rules Committee act on these recommendations. Because the Family Court will be

moving toward electronic filing within the year, the Family Court will be asking its Rules Committee and staff to be designing the new forms and procedures to take advantage of the greater ease of information flow and document retrieval that e-filing will facilitate.

4. The Court of Common Pleas

The Study recommended that the Court of Common Pleas adopt more uniform procedures and practices, including use of the same forms and pretrial process, across the State. The Court of Common Pleas and a Judiciary-wide forms and processes committee made up of judges and court staff is looking at uniformity in processes and forms across counties and courts. The Court of Common Pleas has established a committee of court administration and staff members from each county to draft a statewide policies and procedures manual. The process of documenting all of the Court's processes and procedures provide an opportunity to examine procedures across counties and to implement some changes to make operations more consistent.

5. The Justice of the Peace Court

The Justice of the Peace Court has an internal committee that is charged with improving the efficiency and standardization of case processing procedures and of common forms used in litigation. The Justice of the Peace Court therefore supports the recommendation of the Study to become even more consistent in its case

management practices and procedures, and would welcome help from the ACTL and DSBA in making further progress in this area. In particular, the Justice of the Peace Court believes that improvement can be made in the efficient processing of appeals and transfer requests, and welcomes working with the ACTL, DSBA, and the Bar in that endeavor. With the Justice of the Peace Court slated to move to the same e-filing platform as the other trial courts before the end of the calendar year, its ability to accomplish these objectives should be enhanced. That is also true on the criminal side of the Justice of Peace Court's docket, and the Court will be working with its sister courts and agency partners in key areas such as DUI, to bring greater clarity and consistency to the processing of criminal cases within the Court's jurisdiction.

Charts showing each court's response to the court-specific issues raised in the Study are attached as Exhibit 1.

COURT RESPONSES TO THE STUDY

Supreme Court

ACTL Recommendation	Court Response
Identify difficult cases before scheduling oral argument and schedule those cases *en banc* to avoid delay caused by possible split in three judge panel requiring a second *en banc* argument. (Study, Supreme Court Report at 3)	Screening process is in place where majority of Court of Chancery appeals, and difficult appeals from Superior Court and Family Court, are scheduled *en banc* in the first instance rather than three Justice panels.
Address delays due to trial transcription preparation time in capital cases. (Study, Supreme Court Report at 3-4)	Not currently an issue due to the Supreme Court's decision in *Rauf v. State* declaring Delaware's current death penalty statute unconstitutional. That said, the Court recognizes that over the years there have been situations in other serious felony cases when the parties have had to wait lengthy periods for key transcripts to be finalized. The Court's staff will consult with the Superior Court to determine the extent to which there are delays, the reasons for any backlog, and to identify steps that can be taken to improve the speed with which transcripts can be finalized.
Review July/August argument schedule and consider whether arguments should be heard during those months. (Study, Supreme Court Report at 4)	The ACTL survey did not make a recommendation on this issue due to a lack of consensus. From the Court's perspective, the Court is not closed or on a two month vacation. In July and August of the last two years, for example, the Court issued 174 orders and opinions. Time-sensitive appeals will always be heard at any time of the year.

	The oral argument hiatus results from the work cycle of the Court. Judicial law clerks turn over during the summer, and it is inefficient for the Court and the litigants to have new law clerks who did not participate in oral arguments "re-learn" a case to assist in its disposition. Vacation schedules of the attorneys trigger postponement requests. The Court also respects the important family time for attorneys in the summer and therefore does not want to interrupt that time for arguments that can be scheduled for September. To aid in understanding, the Court has recently published FAQs on its scheduling practices, which are available on the Supreme Court website.
Clarify Court procedure in civil cases for motions to affirm under Rule 25. If the Court is reluctant to exercise its authority under Rule 25 in civil cases, consider dispensing with the Rule. (Study, Supreme Court Report at 5-6)	The Court recognizes that motions to affirm were inconsistently handled in civil cases and rarely granted. After review and discussion by the Court, the Court decided to amend Rule 25. Rule 25(a) as amended preserves the motion to affirm in criminal cases but dispenses with it for most civil cases. Section (b) preserves motions to affirm in civil appeals from orders denying petitions for extraordinary writs. Section (c) allows the Court on its own initiative to affirm trial court judgments and orders when the appeal is facially meritless for the reasons stated in the Rule.

Consider increasing the default times for oral argument (currently 20 minutes per side), and relaxing the Internal Operating Procedure prohibiting the Justices from conferring in advance of oral argument (no ACTL majority view). (Study, Supreme Court Report at 9-10)	The Court believes the 20/25 minute default rule is sufficient for oral argument in most appeals. Existing Rule 16(f) permits a motion to enlarge the time for oral argument if needed. In complex cases, the Court is receptive to considering motions to enlarge the time for argument. In response to the suggestion that the Court's Internal Operating Procedures be amended to allow the Justices to confer in advance, the Court amended IOP V(2) to permit discussion of a case in advance of oral argument or its submission date if the Justices agree it would be useful and the Court has used that option on several occasions since its adoption.
Enforce Rule 8 (requiring issues on appeal to be first fairly raised below) more stringently. (Study, Supreme Court Report at 6-7)	Under existing practice, Rule 14(b)(iv)A.(1) requires appellants to identify in the record where the issue on appeal was raised below. This requirement signals to the Justices when a Rule 8 problem exists. Some of the Court's recent decisions reflect close adherence to Rule 8's requirements. See, for example, *Shawe v. Elting*, 137 A.3d 150 (Del. 2016) (refusing to consider constitutional issue raised for the first time on appeal).
Adopt a word count instead of page limits for briefs to bring the Court in line with other Delaware courts and federal courts. (Study, Supreme Court Report at 7-9)	On September 19 and October 3, 2016, the Court adopted amendments to its Rules and IOPs implementing word counts for motions and briefs.
Review interlocutory appeal procedures to clarify the requirements and promote	The Court amended Rule 42 on May 15, 2015 to provide more guidance to the Bar on what standards must be met to invoke interlocutory review. Rule 42 is now far

uniformity of application. (Study, Supreme Court Report at 13-16)	simpler, confusing terminology was removed, and the Rule focuses on the critical issues relevant to whether interlocutory review makes sense. To that end, the amendments emphasize that resort to the Rule should be the exception and not the rule, and will typically only be granted when the interlocutory appeal raises an issue of considerable importance in shaping Delaware law that cannot await the regular order of considering appeals.

Court of Chancery

ACTL Recommendation	Court Response
The Court should provide a written codification of all filing requirements and guidelines the failure to comply with which can result in rejection of a filing and the Court should consider implementing a notice of non-compliance with a limited window for substitution of a compliant pleading, rather than the outright rejection of pleadings for non-compliance. (Study, Court of Chancery Report at 2-4)	Reviewing our processes for accepting and rejecting electronic filings is a priority. A subcommittee of the Court's Rules Committee has been formed to work with Court staff to review the current e-filing requirements. Most of these requirements already are listed in the "Best Practices for E-Filing in the Court of Chancery," which is posted on the Court's website. The subcommittee has started the process of reviewing these requirements, including the list of common reasons for a filing to be rejected. A group of experienced e-filers from law firms will participate in this project so that we may obtain feedback from day-to-day users of the system. As to the second part of the recommendation, Court of Chancery Rule 79.1 was amended in 2015 to prevent important deadlines from being missed because of technical deficiencies in a filing. Specifically, Rule 79.1(k) allows the Court to enter an order to permit a document to be filed or served nunc pro tunc to the date of the attempted filing when there are technical issues that prevent the filing from being timely processed.
The Court should establish a standardized reply procedure for motions for expedited	There is no "one size fits all" approach to handling motions to expedite because the nature of such motions varies. Some filings are more urgent than others and thus

treatment. (Study, Court of Chancery Report at 6-7)	scheduling is based on the type of motion filed. For example, motions for temporary restraining orders and preliminary injunctions typically require immediate attention. By contrast, summary proceedings, such as books and records demands or advancement actions, are expedited by definition under the DGCL but typically are not as urgent. The members of the Court discussed this recommendation but do not see the utility of a "standardized reply procedure" given the variety of expedition motions. We believe that each member of the Court already gives priority to requests for expedition in a case-specific and sensible manner.
The Court should re-examine the requirement for stipulated facts in its pretrial orders, based on an assessment of the utility of such stipulations to the parties and the Court. (Study, Court of Chancery Report at 6)	The Court has asked a subcommittee of its Rules Committee to look into this issue and provide feedback. The Court of Chancery recognizes that many fact issues are the subject of genuine dispute and certainly does not expect that agreement will be reached on them, such as issues involving mens rea or facts core to the ultimate merits of a case. On the other hand, there are typically many background facts in a case that are not reasonably disputable, such as the identity and positions of parties, the objective economic interests of business case defendants, the date of key events, actual actions of a board of directors or other party, and the like. It serves the interests of judicial efficiency and presumably should aid the parties in preparing and focusing their trial efforts to reach as much agreement as possible on such matters. By working with the Rules Committee, the Court hopes to refine its practices and to provide better, more uniform guidance in this area to ensure

	that the process has genuine utility to both the Court and litigants.

Superior Court

ACTL Recommendation	Court Response
1. Increase use of presentence investigation reports and presentence risk assessment tools. (Study, Superior Court Report at 16-17)	The Court would welcome a presentence report in most felony cases but this would require an expansion of the Investigative Services (presentence) Office. Even with increased collaboration and workload re-distribution cross-county, this office is not able to provide presentence reports in all felony cases. (There has not been a significant expansion of presentence personnel over the last 30 years). The Court is working on expanding the types of cases for which a presentence report will be regularly prepared and revamping the presentence report to make it more useful to the sentencing judge. The Court continues to encourage the distribution of risk assessments to be used in sentencing, and continues to support the AG/PD pilot project involving use of presentence risk assessments such as LSI-R. This is a high priority. The Court is working with DOC to explore use of technology (videophone) to reduce the burden on DOC resulting from in-person presentence investigation interviews of defendants in custody.
2. Reestablish Rule 11(e)(1)(C) pleas. (Study, Superior Court Report at 18-19)	This Rule was amended in 2001 to remove agreed upon plea agreements. The Court determined at that time the Rule inappropriately shifted the determination of the appropriate sentence from experienced judicial officers to very inexperienced prosecutors. There has been no significant

	reduction in pleas since we abolished Rule 11(e)(1)(C) pleas, and it appears that the AG and criminal defense bar have adjusted to the abolition of "C" pleas. While the Court continues to believe its action 15 years ago was appropriate, it has referred this suggestion to the Superior Court Criminal Committee. This is a low priority.
3. Evaluate use of mandatory minimums. (Study, Superior Court Report at 17-18)	The Court has consistently taken the position that in some cases mandatory minimums interfere with the appropriate exercise of judicial discretion and give inappropriate bargaining power to the State. The Court recommends that any statute that the Legislature believes warrants a mandatory minimum sentence should be classified appropriately within the existing felony structure and should not occur on an ad hoc basis. This recommendation has been referred to SENTAC. This is a high priority. The Court notes that the General Assembly's Criminal Justice Improvement Committee established a working group that has proposed a streamlined and improved criminal code which recommends, among other things, grading offenses proportionately, and recommends focusing mandatory minimums on violent, sex, and gun crimes.

4. Narrow and enhance SENTAC guidelines. (Study, Superior Court Report at 16-18)	Although the Court would support a review of the guidelines and whether crimes are appropriately classified, mandatory compliance would inappropriately limit the Court's discretion and harm our ability to sentence consistent with the particular facts and circumstances of each crime. The law presently requires the Court to provide an explanation on the record when it deviates from the guidelines, and perhaps that requirement could be strengthened by requiring a more detailed explanation. Another possibility is adding a requirement that counsel indicate on the plea agreement why they are recommending a deviation from the guidelines. This recommendation has been referred to SENTAC. This is a high priority. If the streamlined criminal code proposed by a working group of the Criminal Justice Improvement Committee is adopted by the General Assembly, there will be a new sentencing grading table utilized by SENTAC.
5. Establish more comprehensive system of assigning criminal cases. Consider individual case assignments. (Study, Superior Court Report at 3-7)	The Court has greatly expanded the types of cases which are individually assigned, and presently all Class A and B felonies are individually assigned. Even with this limited assignment of cases, there are very few weeks that each judge does not have an assigned case that limits their availability for other trials. After careful consideration and extensive discussion, the Court has concluded that individual assignment of each and every criminal case will waste scarce judicial and staff resources and provide no

	discernable benefit to the Court, defendants or system partners.
6. Create separate criminal/civil divisions. (Study, Superior Court Report at 8-9)	The Court divided into divisions 25 years ago and it created an atmosphere unhealthy to the overall business of the Court and resulted in an unfair division of workload. The present rotation allows for a fair and equitable sharing of the overall work of the Court and results in each judge having responsibilities in all areas of our jurisdiction. The Court has considered and rejected the creation of separate civil and criminal divisions within the Court.
7. VOPs-system for adjudicating VOPs needs reform. Make reports universally available in advance of the hearing. Improve depth and quality of reports. Improve due process at VOP hearings. Employ consistent approach. (Study, Superior Court Report at 20-21)	(Note: this issue is closely related to the first issue) There has been important progress over the past few years in the handling of probation matters – this stems in large part from the greater discretion afforded to Probation & Parole to modify a defendant's supervision level and the availability of sanctions apart from those levied by the Court. There is a value to maintaining consistency by having each judge handle her own violations of probation (because the judge becomes familiar with the probationer, and there is "ownership" of the case), but that requires probation officers to attend multiple hearings each week. In an effort to limit probation officers' court appearances, the Court has recommended that probation officers be assigned to individual judges. To date, however, DOC has not found favor with this recommendation and discussions between the Superior Court and DOC continue to find a balance that works for each. The Court notes that prosecutors generally do not attend the VOP hearings because of the DOJ's limited resources, and

	public defenders are assigned to handle hearings even though they have no previous involvement in the case or experience with the defendant being violated. Although defense counsel now receives the violation report electronically before the hearing, the overall situation is less than ideal, and the Court's Criminal Case Management team is undertaking a review and will make recommendations as to how we can improve the overall process and insure greater due process. The Court will then collaborate with DOC/Probation & Parole to address these concerns. This is a high priority.
8. Improve case management and information sharing between courts and system partners. (Study, Superior Court Report at 10-12)	Liaison judges and staff meet regularly with, and collaborate with, AG, ODS, DOC, P&P and other system partners to obtain feedback in an ongoing effort to improve case management and information sharing. We continue to explore the use of technology to increase flow and ease of information sharing and to improve our case management. Unfortunately, the case processing systems in place were not intended to provide management tools/reports and efforts to change and improve have been limited by available funding and an already over-burdened staff. This is a very high priority.

9. Review overall process and workload of criminal justice system and resources. (Study, Superior Court Report at 4-7)	The overall pending criminal caseload is generally affected by forces outside of the Court. The number of cases coming into the system is more dependent upon the actions of the police and the DOJ, obviously (and appropriately) without input from the Court. The ability of the Court to process cases more quickly is greatly affected by the limited number of attorneys who are involved in the handling of criminal matters and the complexity of the cases that are being indicted. The Court is also limited by the number of available jury courtrooms and staff to manage them, an issue we hope to ameliorate if the other Branches allow us to build out the 7th floor of the Justice Center. The Court meets with our criminal justice system partners on a regular basis to discuss how we can work together and more efficiently and effectively use/allocate resources. This is a high priority. The move to e-filing in criminal cases should aid greatly in this process, by ensuring that information is captured at first filing, docketed in retrievable form, and available to all who need it any time during a case.
10. Create uniformity in case scheduling orders and other processes across counties. (Study, Superior Court Report at 25-26)	Although each county presents unique and different challenges and opportunities, where appropriate, the Court is implementing a standard statewide case scheduling order and management processes. But, it is critical to recognize that there is mutual disparity in caseloads and judicial and staff resources county to county, and a single process may not be best for any particular situation. The Court is currently reviewing current processes in all three counties in an effort to standardize when possible and create a process manual that can be used statewide.

	The Court is working with senior Prothonotary staff statewide in this effort. This is a medium to low priority, given the Prothonotary's involvement in numerous other projects which demand significant staff time, and a high number of vacancies in the Prothonotary's office. With the advent of e-filing of all cases in the Court, we expect that workload in the counties' offices can be better monitored, and this will undoubtedly assist us in our continuing efforts to provide the best service.

Family Court - Civil

ACTL Recommendation	Court Response
Convene a case management conference between the Court, counsel, and/or litigants to create efficiency. (Study, Family Court Report at 3)	The Family Court views this as a very important priority. The Chief Judge has established a Court Processes Committee which is addressing, among other issues, the implementation of case management conferences in civil cases by court rule. In practice, some judges currently utilize case management conferences in their cases and instituting the practice statewide will not be difficult.
Expand the jurisdiction of the Family Court to include adult guardianships, truancy and name changes for minor children. (Study, Family Court Report at 4)	The Family Court will consider this but does not view it as an urgent priority. The Chief Judge will be meeting with the presiding judges of the other affected courts to discuss the proposals, review the jurisdictional issues, and determine a path forward as part of the new Jurisdiction Improvement Committee.
Consider requiring e-filing in all civil cases as a means of increasing efficiency, including record-keeping and organization, but monitor costs and hardship issues. (Study, Family Court Report at 4-5)	This recommendation, along with the adoption of uniform practices and procedures in the ACTL Study are the priorities the Family Court views as most important. An initiative is currently underway in the Family Court with significant resources devoted to implementation of electronic filing and the adoption of uniform practices and procedures in conjunction with the new e-filing system.

Revise procedures to address the "custody gap" period that occurs in custody cases. (Study, Family Court Report at 5-6)	The perceived delay from the filing of a custody petition to mediation is being reviewed by the Court as well as the delay from mediation to a custody hearing. The Court Processes Committee and the Family Court Enhancement Project are both considering initiatives that will address this issue.
Implement improved mediation and pre-trial procedures. (Study, Family Court Report at 6-7) • Provide additional time for mediation and training for mediators. • Pretrial procedures should include an opportunity for a hearing in the event of an unsuccessful mediation • Make the completion of a pre-trial form mandatory in custody proceedings.	 • The Court is studying this recommendation. Mediators completed training through the University of Delaware in 2016 and additional training is planned for 2017. Additionally, a caseload study completed in 2016 will inform the Court of the amount of time that mediators spend on certain case types and further direct the Court on whether additional time is necessary for mediation. • This will be addressed by the use of case management conferences. • The completion of a mandatory pre-trial form in custody proceedings has been developed by the Family Court and provided to the Family Law Section of the DSBA for review and comment. The use of the form under Rule 16(b)(3) will require a rule change which is currently under review by the Rules Committee. The form will be

	implemented first, and the use of this form may alleviate the need for additional time for mediation.
Amend the Family Court Forms and Reports. (Study, Family Court Report at 7-8)	The Family Court agrees with this recommendation and, specifically, with revising Family Court Civil Procedure Rule 16(c) and 52(d). As to Rule 52(d), survey participants felt that the instructions are impractical to implement, which requires a rule change. The Family Court Rules Committee has drafted a change to Rule 52(d). Once the rule change is complete, the Court will change the 52(d) scheduling letter, create a template and present the proposal to the judges. The recommendation also included elimination of the disposition request from Rule 16(c) Financial Report. The removal of the dispositional page requires a change to Rule 16(c) which has been drafted by the Rules Committee.
Improve guardianship procedures. (Study, Family Court Report at 8-10) • Reduce the inconsistencies between private and public guardianships. • Eliminate or waive filing fees in guardianship cases. • Provide more timely relief in proceedings that do not present facts warranting emergency relief, such as orders to enroll children in school.	• This can be reviewed and addressed as part of the Family Court Rules Committee. • The elimination or waiving of filing fees in guardianship cases was recently reviewed as part of the branch's fee increases and will not be reconsidered at this time. • This is being reviewed by the Court as part of the consideration to move towards individual judicial assignment of cases at the time of filing. Guardianship petitions are assigned to

• Eliminate the print publication requirements for service and notice.	judges when filed and when case management conferences are instituted by court rule, non-emergency issues can be addressed on a priority basis without an emergency application. • Alternative publication requirements for service and notice such as digital media will be addressed by the Court, and submitted to the Judicial Strategies Committee for consideration.
Review the Protection From Abuse process, which has the potential to be misused by litigants. (Study, Family Court Report at 10-11)	The Court is examining the entire PFA process and procedures as part of the Family Court Enhancement Project.
Adopt guidelines for *pro se* litigants. (Study, Family Court Report at 11-12)	Although the recommendation was to develop guidelines for pro se litigants, the Court plans to include guidelines for attorneys as well. The Chief Judge has established a Practice Guidelines Committee to develop the guidelines in conjunction with representatives from the Family Law Section of the Delaware State Bar Association, attorneys from partner agencies, and Family Court Judges and Commissioners. Once the guidelines are drafted they will be presented to the judicial officers and the Family Law Section.
Adopt uniform practices and procedures for all three counties. (Study, Family Court Report at 12-13)	Along with the implementation of electronic filing (see above), this is the Family Court's highest priority. The Chief Judge and Court Administrator have made significant progress in implementing consistent operational procedures and cross-training staff. The Family Court utilizes the Six

	Sigma method of process improvement when assessing current practices and proposing new procedures.

Family Court - Criminal

ACTL Recommendation	Court Response
Utilize all available tools to filter the most dangerous juveniles into the necessary programs. (Study, Family Court Report at 14-15)	This is a high priority of the Family Court and has several subparts.
• Allow sufficient time for PACT risk assessments before sentencing.	• Dispositional hearings have customarily been held at the same time as the adjudication hearing (plea bargain) for youth sentenced to probation, and the PACT assessment is then completed post-disposition to allow YRS to implement any necessary services in the community. For youth facing a Level IV or Level V placement, the Chief Judge suggested that judicial officers consider deferring sentencing to allow YRS to complete their PACT assessment when additional information would be beneficial to the Court. Family Court, YRS, DOJ and ODS are continuing to meet and discuss this process.
• Reconsider placement of juvenile offenders, especially girls, in out of state facilities, like the Glen Mills School.	• In February of 2016, the judicial officers were made aware that YRS no longer had a contract for new youth to be sentenced to Glen Mills. If a judicial officer believes that Glen Mills is an appropriate placement for a youth, the judicial officer must request YRS approval along with a review by the Placement Authorization Committee (PAC). The Family Court agrees that the lack of in-state Level V facilities for female juveniles is of

• Consider transferring Truancy Court from the Justice of the Peace Court to the Family Court.	significant concern and will be a partner in any interagency efforts to address this issue as a State. • As part of the Jurisdiction Improvement Committee, the Chief Judge will be meeting with the presiding judge of the other affected court to discuss the proposal, review the jurisdictional issues, and determine a path forward.
Convert Drug Court, in its current format as an adjudicative court, into a diversion court. (Study, Family Court Report at 16)	The Family Court placed a hold on new referrals to Drug Court in October 2015 in order to review the need for a treatment and rehabilitative specialty court within a treatment and rehabilitative court. The Family Court's judicial officers and administrative staff who are involved in the operation of Drug Court will be meeting to determine whether there is a model Drug Court that can be replicated on evidence-based results.
Make specific improvements to the Family Court's criminal calendar process, including allotting time for plea negotiations before the day of trial, using risk assessment tools at sentencing (see above) and updating the Family Court facilities. (Study, Family Court Report at 16-17)	Replacement of the current Family Court facilities in Kent and Sussex Counties continues to be the Family Court's first priority. The current facilities are inadequate, unsafe, and do not comport with notions of fair justice. As to the other recommendations, the Family Court is studying trial date certainty in our criminal and delinquency cases and will be implementing changes to our case flow management to improve trial date certainty and eliminate unnecessary continuances.

Court of Common Pleas

ACTL Recommendation	Court Response
Consider potential changes to policies and procedures, jurisdiction, and staffing in light of their impact on the Court's actual and perceived ability to administer justice relatively promptly. (Study, Court of Common Pleas Report at 5-9)	
• Consider expanding the Court of Common Pleas jurisdictional limit in civil cases to somewhere in the range of $75,000-$100,000.	• The Court has had internal discussions regarding this recommendation and is open to an increase in jurisdiction. The amount by which the Court should increase its jurisdiction is an issue for further discussion by the Court's Rules Committee and the Jurisdiction Improvement Committee. The Court is unsure whether an increase to $75,000 would have any significant impact on the court's civil caseload and further whether an increase to $100,000 would be supported by the Superior Court if looking at the potential increase from a cross-court perspective. It would be useful to have further involvement by the ACTL/DSBA to assist in examining the issues and making a recommendation to the court.
• Consider expanding the Court's jurisdiction in criminal cases to allow the Court to accept guilty pleas for lower level felonies, and expand the Court's jurisdiction to include all misdemeanors or else consider merging the Court of Common Pleas and the Superior	• The Court of Common Pleas has now been given jurisdiction of misdemeanor drug offenses and has made significant operational changes to allow for the efficient processing of this new caseload including adding Title 16 specific arraignment and case

Court into one court. Also, consider reclassifying many low level "crimes" to "offenses."	review calendars to address the change in jurisdiction. Additionally, possession of marijuana has under certain circumstances been reduced to a civil penalty addressing some of the respondent's concerns regarding over criminalization of relatively minor infractions. The Court of Common Pleas' position is that it is the court best situated to adjudicate Driving Under the Influence cases and consistent with the survey results the Court would be open to an expansion of its jurisdiction to include DUI third/felony DUI cases, which would allow the concentration of resources. Again, these are issues that should and will be reviewed by the Jurisdiction Improvement Committee, and the Court of Common Pleas looks forward to participating in good faith in its deliberations.
• Consider allowing civil jury trials in the Court of Common Pleas	• The Court's position is that civil jury trials in the Court of Common Pleas would decrease the Court's ability to efficiently and expediently handle the caseload. The Court is not recommending additional action.
• Consider moving to individual judicial assignment (rather than calendar assignment)	• Both Kent and Sussex County currently utilize individual case assignment and the issue is under active consideration by the Judges in New Castle County.

• Reduce the number of cases scheduled on the trial calendars.	• The Court discussed the recommendation to reduce the number of cases scheduled on the trial calendars. It concluded that though it can appreciate the concerns of the respondents, the recommendation is not feasible given the number of judges, courtrooms, and available court staff in conjunction with the burgeoning caseload. The Court notes that it is participating in a study by the National Center for State Courts that is looking at all of the Courts' criminal case scheduling practice and the Court is open to recommendations made by the National Center at the conclusion of that study that may potentially make recommendations to address this issue. The Court continuously reviews its event calendars and caseloads and makes adjustments to address areas of concern as they arise. Additionally, the Court meets monthly with representatives from the Attorney General's Office, Office of Defense Services, and private bar to discuss scheduling concerns and improve delivery of service to litigants.
• Encourage use of the SPEED Docket.	• The SPEED Docket experienced a decline in filings due to the Court's ability to dispose of civil matters within 116 days. The Court is operating at a level of efficiency in the management of its civil docket that has rendered the SPEED Docket's purpose of resolving a civil case within eight months less appealing.

	But recently there has been an uptick in the number of SPEED cases filed by attorneys regularly practicing in the Court of Common Pleas who utilize the SPEED docket for the benefit of judicial assignment. No further study of these recommendations is recommended.
• Require automatic discovery at the time of a criminal defendant's arraignment.	• The Court recognizes the issues with the discovery process and the Court is studying possible improvements to this process through the Court's established rules committees. The Court has regularly scheduled meetings with representatives from the Attorney General's Office, the Office of Defense Services, and the private bar where discovery issues are discussed and compromises reached to improve the discovery process.
Consider the adoption of uniform court practices and procedures across all three counties. (Study, Court of Common Pleas Report at 9-11)	This recommendation is being studied by the Court and a judiciary-wide forms and processes committee that is made up of judges and court staff that are looking at uniformity in processes and forms across counties and courts. The Court is currently drafting a statewide policies and procedures manual by a committee consisting of court administration and staff members from each county. The process of documenting all of the Court's processes and procedures has provided an opportunity to examine procedures across counties and implement some changes to make operations more consistent. Additionally, the Court has adopted new bail

	posting and inquiry system as well as a new bail accounting system in all three counties using assistance from the University of Delaware's Alfred Lerner School of Business. Students were made available as part of the Judiciary's MOU with the University.
Encourage litigants to make greater use of pretrial mediation. (Study, Court of Common Pleas Report at 11)	The Court will investigate ways to increase litigant participation in the mediation process. Any recommendations to increase mediation participation that could be made by the DSBA or the ACTL would be beneficial. The Court's mediation officer speaks at community events and bar association educational seminars to educate the Court's users on the mediation program and to train volunteers to assist the Court by offering community mediation services to supplement the mediators service to the litigants.
Review the assignment of tasks to Commissioners and how the Commissioners could be deployed to operate more effectively. (Study, Court of Common Pleas Report at 11-13)	The Study reflected no consensus on how the Court of Common Pleas utilizes its Commissioners and contained no recommendations on changes to the Court's current processes. Therefore, the Court has not made any changes in this area.
Improve and update the use of technology. (Study, Court of Common Pleas Report at 13-14) • Make electronic filing available in all cases, with appropriate accommodations for self-represented litigants.	 • The Court of Common Pleas fully supports this goal and has already successfully converted to File & ServeXpress® for its civil cases on April 2, 2017, and is part of the team

	working to implement e-filing in criminal cases.
• Update the current case management system and utilize an attorney scheduling matrix similar to the one used in the Superior Court.	• The case management system is a Judiciary-wide issue with transitional costs associated with improving or replacing the existing systems. This issue should be further studied branch wide by the Judiciary's information technology division as well as the ACTL/DSBA committee. The adoption of File & ServeXpress® in all cases Judiciary wide is fundamental to solving this problem, and will allow for a more effective approach to case management systems in the near future. The Attorney Scheduling Matrix has been adopted by the Court and is currently being utilized in the Court of Common Pleas in all three counties.
• Improve courtroom technology and train staff on its use.	• The Court has engaged the Judicial Information Center to assist in making recommendations to improve courtroom technology. The Court is in the process of securing the services of Court Call and installing necessary equipment in courtrooms in each county to allow for participants in certain approved situations to appear by video phone using the Court Call service. The Court incurs no cost in usage of the service. Additionally, the Court is exploring with the Judicial Information Center, other areas where courtroom technology can be improved. The Court implemented an

	IVR (Interactive Voice Response) system in April 2017.
The Court of Common Pleas criminal calendar is handled effectively given the available resources, but enhanced resources would enable improvements. (Study, Court of Common Pleas Report at 14-17)	The survey respondents made suggestions requiring deployment of additional judges, staff, prosecutors, public defenders, social workers, and law clerks as well as the need for larger courtrooms. It was also suggested that the Court clearly articulate times for court sessions. The Court of Common Pleas agrees that additional resources are needed by the Court. The need for additional court resources should be studied by counsel, courts, and the Judiciary as a whole, but significant budget implications come into consideration when need for additional staffing and additional courtroom space are considered, which must be approved as part of the State's budget process. The Court can, however, study ways to better articulate times for court sessions. The Court balances a need for the judges to take the bench for scheduled court sessions at the scheduled times with the determination of time needed by the parties to discuss and work out case resolution. At times, this process makes it more efficient for judges not to take the bench at the scheduled time. However, the Court is committed to the principle of starting at the scheduled time.
Enhance the efficient use of resources dedicated to the problem-solving courts. (Study, Court of Common Pleas Report at 17-18)	Chief Justice Strine appointed the Criminal Justice Council for the Judiciary, which was assisted by the American University, to review treatment courts in Delaware.

	Consistent with the American University Report and the recommendations of the Chief Justice's appointed committee to review the treatment courts, the Court of Common Pleas has merged its Mental Health Court into the Superior Court. The process is working very well and can be a format for other such courts. Additionally, the Court of Common Pleas and the Superior Court are working in partnership to reestablish all Drug Court activities in the Court of Common Pleas. Court of Common Pleas judges have been cross-appointed to handle the Superior Court Drug Court cases in conjunction with the existing Court of Common Pleas Drug Court cases and the reverse is also true of mental health cases. The Court is also currently laying the groundwork for expansion of the DUI Treatment Court to Kent and Sussex Counties. The Department of Correction has begun discussions regarding the assignment of a specific Probation Officer to handle the DUI Treatment Court Cases. Additionally, the Department of Transportation Division of Highway Safety has provided funding for a cross-departmental team including members of the Attorney General's Office, the Office of Defense Services, and the Court of Common Pleas Commissioner in Kent and Sussex Counties to attend an intensive DUI Treatment Court training in December.
Improve civil appeals and the transfer process. (Study, Court of Common Pleas Report at 18-20)	• The Judiciary appointed a rules committee to look at rules across

• Streamline and standardize the appeals process, particularly in landlord-tenant disputes and for Title 21 offenses, and consider changing the "mirror image rule."	courts and the Court of Common Pleas created its own rules committee to also look at Court of Common Pleas Rules. The "mirror image" rule may need to be eliminated and the rules rewritten accordingly. The Court has had discussions with the Justice of the Peace Court relative to appeals in landlord-tenant cases and there is consensus on both courts that changes are warranted. The discussion centers upon such appeals from the three-judge panel being considered on the record, and all other appeals from the Justice of the Peace Court actions would remain de novo.
• Streamline the process for transferring cases to the Court of Common Pleas from the Justice of the Peace and Alderman's Courts.	• The Court agrees that the current manual transfer process is time consuming and results in delays and clerical issues. The Court is confident that the implementation of criminal e-filing and an electronic document management system for criminal filings will address many of these concerns.

Justice of the Peace Court

ACTL Recommendation	Court Response
Review court civil jurisdiction claim thresholds; also review transfer and appeal procedures for streamlining and removal of dated procedural requirements. (Study, Justice of the Peace Court Report at 6; 7-8; 13-14)	The Court plans to continue utilization of internal Justice of the Peace Court committees to analyze and standardize processes. Involvement from the Bar and others supporting pro se litigation would be helpful. Transfer and appeal processes are an area ripe for streamlining and avoidance of arcane procedural practices. The Justice of the Peace Court re-established internal committees in 2016 that are charged with progressive evaluation of civil and criminal forms and processes. These committees will continue to be tasked with process improvements and standardization across locations. The Justice of the Peace Court has established extensive basic legal education classes for our judges that continually focus on correct application of processes that are standard across locations.
Review cross-court issues concerning handling of DUI cases among the Justice of the Peace Court, Court of Common Pleas, the Attorney General's Office, and Office of Defense Services. (Study, Justice of the Peace Court Report at 9-11)	The DUI process is currently undergoing an extensive review with participation from the Justice of the Peace Court, the Court of Common Pleas, and the Attorney General's office. Involvement from the Bar and others supporting pro se litigation would be helpful. Current group reviewing DUI processes is expected to make recommendations within the coming fiscal year. This may include establishment of a DUI court at the Court of Common Pleas, as well as identifying DUI cases to be retained at the Justice of the Peace Court for pleas and for meaningful monitoring of pretrial conditions intended to maintain public safety.

Review jurisdictional issues for landlord tenant cases and court processes for handling more complex cases. (Study, Justice of the Peace Court Report at 4)	Justice of the Peace Court is open to increase the jurisdictional limit for landlord-tenant cases to account for inflation. We also would welcome legislation and processes that would allow us to resolve all aspects of landlord-tenant cases at our Court without requiring the filing of a separate action in another court. This should be considered as part of the mandate of the Administrative Law Improvement Task Force. We are open to review of whether individual assignment of complex civil cases may be feasible. Involvement from the Bar and others supporting changing our approach with landlord-tenant cases would be helpful. We are available to coordinate on reforming these areas. We do not have any groups currently working on increasing threshold amounts or looking into individual case assignments. We did convene a group to review the policy and rules related to appeals; that process broke down and should be reconvened. These cases and other cases involving real property and land use should also be considered as part of the Administrative Law Improvement Task Force. These areas involve overlapping jurisdiction and outdated procedures and simplification and reform are needed.

Review current fee structures for simplification (Study, Justice of the Peace Court Report at 17-18)	Current fee structures are complex and continue to be complicated as the legislature adds fines. We have recommended legislative changes to streamline assessments. The internal review committee has rejected that legislative approach two years in a row. This item would need to be addressed across courts and with legislative support.
Consider statewide case management and e-filing system (Study, Justice of the Peace Court Report at 18)	Technology support for all critical court process is essential to effective case management. We are open to exploring meaningful technological advancement. Technological needs exceed simply substituting one e-filing system for another. Available to participate in judiciary wide technology review immediately.
Consider consistent procedures across all courts and counties. (Study, Justice of the Peace Court Report at 16-17)	Our Court has numerous process mechanisms in place to establish consistent procedures. We have: court-wide policies and procedures applicable to all locations; standardized training for judges and staff on standardized procedures, and Committees established to review procedures for accuracy and consistency. We plan to continually review court procedures and approaches for state-wide uniformity.
Eliminate citizen warrants. (Study, Justice of the Peace Court Report at 10, 12)	The Justice of the Peace Court has taken numerous steps to eliminate the citizen warrant process. The Justice of the Peace Court will continue to work with major police agencies on the elimination of citizen warrants.

Consider enhanced education for *pro se* litigants. (Study, Justice of the Peace Court Report at 14)	Support for pro se litigants is an under-addressed area for our Court and the Judiciary as a whole. We have taken some steps to provide instruction and material for pro se litigants, however, we acknowledge the great need in this area. We would value support from experts in the pro se to assist. Involvement from the Bar and others supporting pro se litigation would be helpful. We are considering options to dedicate staff to pro se projects. To this end, the Justice of the Peace Court has actively supported the work of the Access to Justice Commission as that group has made several important suggestions as to how our Court and the Judiciary as a whole can help pro se litigants better. We intend to help implement these recommendations.