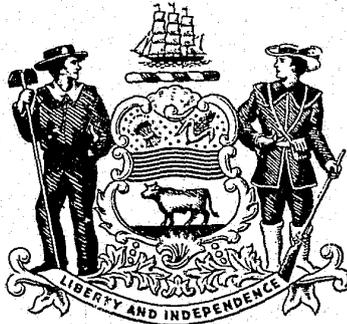


# CRIMINAL JUSTICE STANDARDS AND GOALS

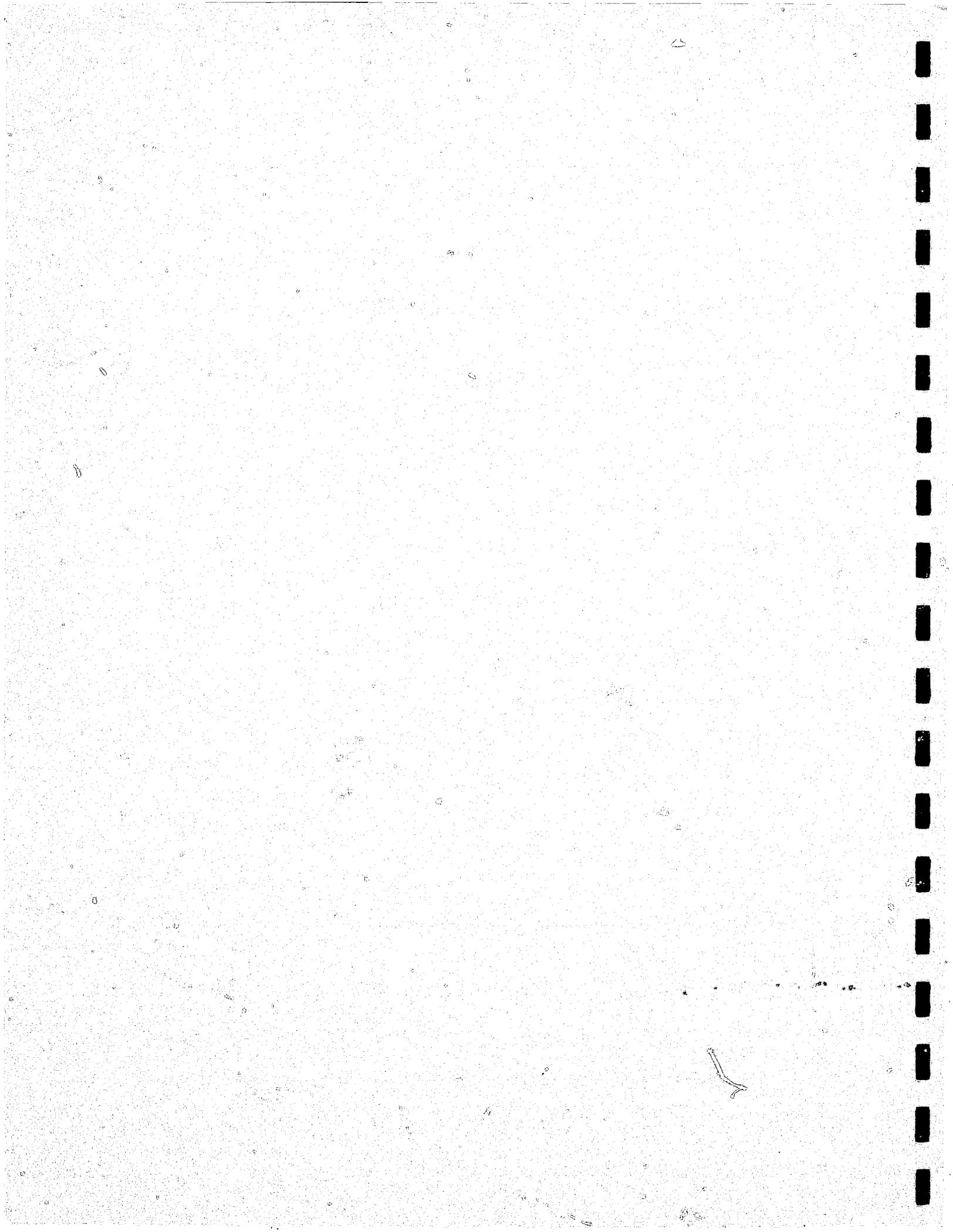
for the  
State of Delaware

1976



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Delaware Agency to Reduce Crime



CRIMINAL JUSTICE  
STANDARDS AND GOALS  
for the  
State of Delaware

Criminal Justice Standards and Goals Project  
1105 Madison Street  
Wilmington, Delaware 19801

This document constitutes an abridgment and revision of DRAFT CRIMINAL JUSTICE STANDARDS FOR DELAWARE (1975), financed in part by discretionary grants from the Law Enforcement Assistance Administration of the U. S. Department of Justice to the Delaware Agency to Reduce Crime and designated as 74-DF-03-0015, 74-ED-03-0002, 75-DF-03-0015, and 75-ED-03-0003. Points of view stated in this document do not necessarily reflect the view of the United States Department of Justice. They are the recommendations of the Governor's Crime Reduction Task Force, appointed by Governor Sherman W. Tribbitt to serve as the Standards and Goals Commission for the State of Delaware.

## ACKNOWLEDGEMENTS

The DRAFT CRIMINAL JUSTICE STANDARDS FOR DELAWARE (1975) consisted in its original form of 469 standards and recommendations designed to reduce crime and improve the quality of justice for the citizens of the State of Delaware.

They were developed over a two-year period by an elaborate array of committees, subcommittees, and steering committees consisting of interested citizens, professionals, and volunteers from the fields of law enforcement and related disciplines which included broad representation both demographically and geographically. The Governor's Crime Reduction Task Force chaired by Governors Russell W. Peterson and Sherman W. Tribbitt and Governor Tribbitt's successive vice-chairmen (O. Francis Biondi and Robert G. Carey, Esquires) supplied leadership and coordination. A complete listing of the personnel involved may be found in the 1975 DRAFT.

The purposes of the accompanying document are (1) to update the original DRAFT and (2) to publish an abridged version in a format that will be useful to legislators, to public and private agencies concerned with law enforcement, and to the citizens of the State.

Special acknowledgement should be made of the unstinting contributions of time and effort by members of the Task Force, its many subgroups, and especially the steering committees who painstakingly reviewed the DRAFT abridgement.

I acknowledge also a special debt to Patricia Hale Wilson and to Janice M. McCoy whose contributions as editor and secretary, respectively, went far beyond the call of duty. The virtues of this document are attributable to their efforts; for its faults, I take full responsibility.

Individuals seeking further information bearing on any or all of the standards referenced in this abridgement are referred to the 1975 DRAFT STANDARDS.

Norma B. Handloff

  
Project Director  
December, 1976

## INTRODUCTION

The National Advisory Commission on Criminal Justice Standards and Goals was appointed October 20, 1971 and chaired by former Delaware Governor Russell W. Peterson. The Commission met to formulate national criminal justice standards and goals for reducing and preventing crime at the State and local levels. It sought to encourage and facilitate cooperation among all the elements of the Criminal Justice System and with the communities they serve. The standards and recommendations proposed in this volume are a logical outgrowth of this landmark two-year study.

The standards and recommendations presented here for implementation represent a general consensus on the part of criminal justice leaders in Delaware, both State and local, and members of the interested lay public. They are intended to map the direction in which the Criminal Justice System should be moving if the quality of justice is to be improved and our communities made safer and happier places in which to live and work.

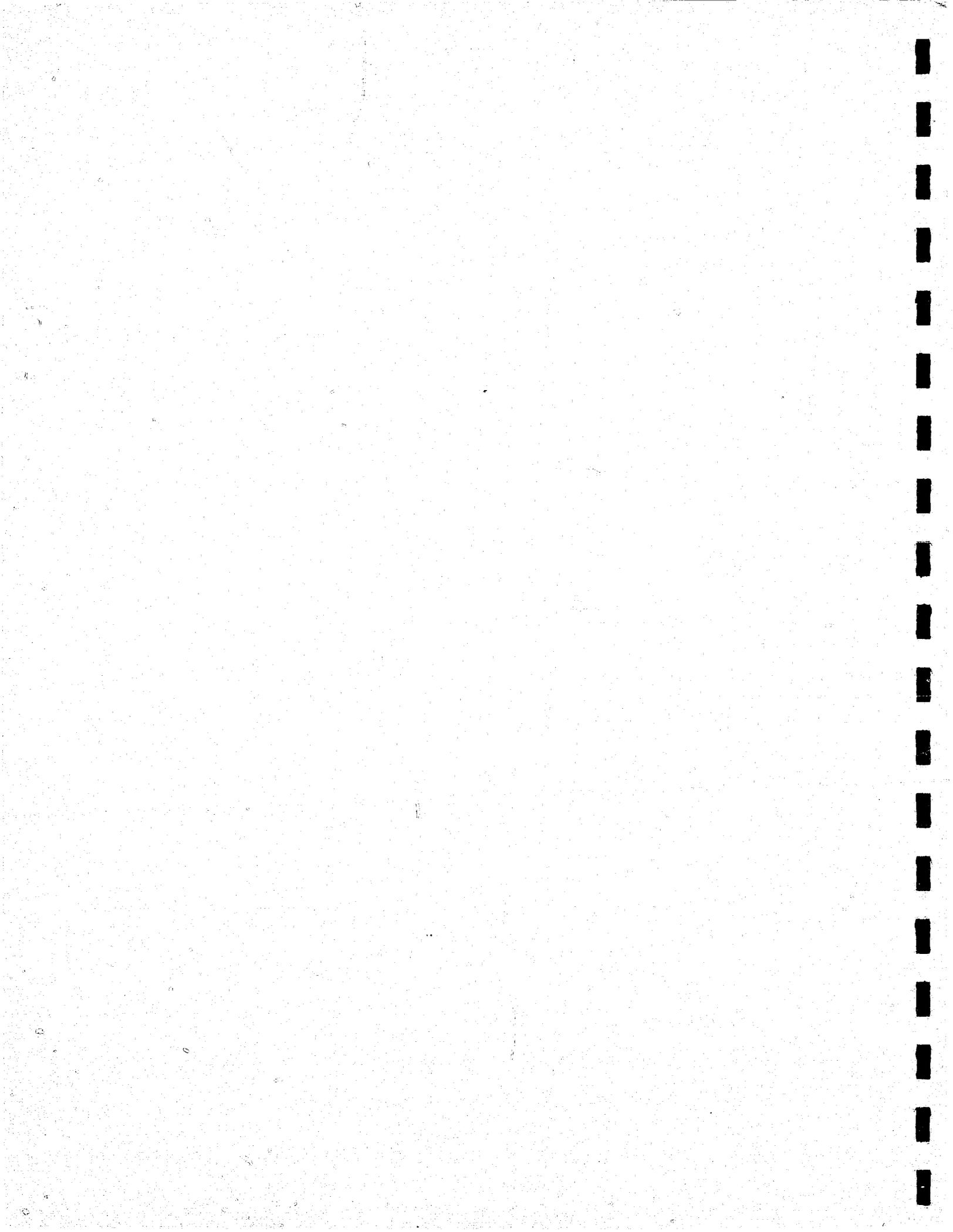
It is recognized that: (1) improvements in the separate components of the system mean little unless they contribute to the functioning of the System as a whole; and (2) while constructive change does not invariably imply massive expenditure of tax dollars, budget allocations of various dimensions are certainly implied in many instances. Justification for such expenditures must depend on the results of economic analysis and on demonstrable benefits to the taxpayer. We must therefore accommodate our expectations to the fact that financial constraints will ultimately have substantial effect on priorities and time-frames for implementation.

Experience shows also that in those areas where decisions must be made by units of local government, a variety of possible outcomes is to be expected. No two (2) sets of local conditions are identical, and it is the citizens most intimately affected who must make the final determinations.

STATUS OF IMPLEMENTATION  
(INFORMATION CURRENT - SEPTEMBER 1976)

	COMMUNITY CRIME PREVENTION	POLICE		COURTS			CORRECTIONS				CRIMINAL JUSTICE SYSTEMS
FULL	*1.7 *3.1	*6.1 *6.7 *7.3 *7.7	*7.10 *8.3 *8.7 *8.8	*9.1 *9.8 *9.9 *9.14	*9.19 *10.3 *10.5 *10.11	*10.15 *11.3 *11.4	*14.2 14.5 14.6 14.9	14.16 14.18 14.20 14.23	14.24 14.28 14.30 14.32	14.33 14.41 14.42 15.27 16.2	*19.1 *19.5
LEMPGISLSEALMANTIVATION	1.3 P1.5 1.9 1.10 1.11 1.13 1.14 1.15 2.1 P2.3 P4.1 P4.2 P4.3 P4.4	P5.1 5.2b P5.5 P5.9 P6.2 P6.3 P6.5 P6.6 P6.8 P7.1 P7.2 7.6 P7.8 P8.4 P8.6		P9.2 P9.3 P9.4 P9.5 P9.6 9.10 9.11 9.12 P9.15 P9.16 P10.4 P10.6 P10.7 P10.8 P10.9 P10.10	P10.12 P11.2 P11.5 P12.1 12.2		13.5 14.17 14.31 14.36 14.37 14.38 P14.40 14.43 15.1 P15.3 P15.4 15.6 15.7 15.12 P15.14 15.16	P15.14 15.16			P18.1 P18.2 P18.6 P19.3 P20.2
ADMPILENSERTATION	1.1 1.2 1.3 P1.4 P1.5 P1.6 P1.8 1.9 P1.10 P1.12 1.13 1.14 P1.16 P2.2 P2.3 P4.1 P4.2 P4.3 P4.4	P5.1 5.2a 5.2b 5.3 5.4 P5.5 P5.6 5.7 P5.8 P5.9 P5.10 P6.2 P6.3 P6.4 P6.5 P6.6 P6.8 P7.4 7.5	7.9 P8.1 P8.2 P8.4 P8.5 P8.6	9.7 9.13 P9.15 P9.16 P9.17 P9.18 P10.1 P10.2 P10.8 P10.9 P10.12 P10.13 P10.14 11.1 P11.5 P12.1 12.2 12.3			P13.1 13.2 13.3 P13.4 13.6 P13.7 13.8 P13.9 P13.10 P13.11 13.12 13.13 13.14 14.1 P14.4 P14.5 P14.7 P14.8 P14.10	P14.11 14.12 P14.13 14.14 14.15 14.19 14.21 14.22 14.26 P14.27 P14.29 P14.34 14.35 14.39 P14.44 15.2 P15.4 P15.5	P15.8 P15.9 P15.10 15.11 15.12 P15.13 P15.14 15.15 P15.17 P15.18 15.19 P15.20 P15.21 15.22 P15.23 P15.24 15.25 15.26 P15.28	P15.29 16.1 16.3 P16.4	P17.1 P17.2 P17.3 P18.1 P18.2 18.3 18.4 P18.5 P18.6 P19.2 P19.4 P19.6 P20.1 P20.2
CANSALESTYSSIS	1.3 1.4 1.5 1.9 P1.10 (\$350,000 FY76) 1.13 1.14 1.16 P2.3 P3.1 (\$125,000 FY76) P4.1	5.1 (\$25,000-35,000 FY76) 5.2a 5.3 5.4 P6.3 P6.5 P6.6 P7.1 (\$60,000-100,000 FY76) P7.2 P7.4 7.5 P7.8		P9.2 P9.17 (\$10,000 FY76) P10.2 P10.4 P10.6 P10.7 P10.9 P10.14 11.1 P11.5			13.2 13.3 13.6 P13.10 13.12 13.13 13.14 14.1 14.4 14.7 P13.1 (\$131,369 FY76) 13.7 (\$ 76,680 FY76) 14.17 (\$ 70,000 FY76) 15.1 (\$ 50,000 FY76) 15.3 (\$ 35,000 FY76) 15.25 (\$350,000 FY76)	14.10 14.11 14.12 14.13 14.14 14.15 14.15 14.25 14.29 14.34 14.35 15.10	14.37 14.38 14.59 14.43 14.45 15.6 15.7 15.8 15.9 15.10	15.12 15.13 15.14 15.19 15.22 15.23 15.26 15.29	P17.2 P18.1 P18.2 18.3 18.4 P19.2 P19.3 20.1 20.2
DARC <sup>1</sup> TAGRA GL ES T	D1 (1.3) D2 (2.1) D3 (1.1-3,1.4) D4 (1.4) D9 (1.10,1.12,1.14,1.16) D13(1.11) D14(4.4) D15(1.1,1.2,1.3,1.5-9,1.10,1.12-14,1.16,3.1)	D1 (5.1-3,5.10,6.1-2,6.5) D2 (5.2,5.6-7,6.3,6.4,6.6,6.8) D3 (5.3-4,6.2) D4 (5.9,6.6) D5 (5.9) D6 (5.3,5.4) D8 (6.6) D9 (5.4,5.8) D11(5.2,5.3,6.8) D12(5.3,5.4) D13(7.1-3,7.5-6,7.7-8,7.9,7.10) D14(5.3,5.4)	D1 (10.2,10.3,10.7,10.11-12,12.1) D2 (9.4,9.17,10.10,10.14) D3 (9.1,9.2,9.3-4,9.5,9.6,9.7,9.8,9.9,9.10-11,9.12,9.14,9.17,9.18,9.19,10.7) D4 (9.2,11.2-5) D5 (9.1-2,9.5) D7 (10.6,10.15) D8 (9.1,10.4,11.2) D9 (10.5,10.6,10.11,10.15) D10 (9.14) D11(12.1,12.2-3) D13(10.1,10.8,10.13) D14(10.7) D15(11.1)	D1 (13.14,14.1,14.2,14.3-4,15.1-2,16.27) D2 (14.3) D3 (15.7,16.1,16.25,16.27,16.37) D4 (16.1,16.29,16.30,16.31-32,16.40) D5 (16.8-9,16.12-13,16.37) D8 (15.1,15.4-6,15.8,15.9-11,15.14,15.17,16.31,16.34-36,16.38) D13(13.1,13.2-3,13.6,13.9,13.10,13.14) D14(14.1-2) D15(16.38)	D1 (17.1-2,18.1-5,19.5,19.6) D2 (18.1,18.2) D3 (18.1-2,18.3-5) D6 (18.2) D10(18.4) D14(18.1-4,18.5,19.1,19.2-6)						

\*Fully implemented No symbol - No implementation P - Partial implementation D - DARC target goals - Direct Impact Standard  
1 See Appendix B.



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## COMMUNITY CRIME PREVENTION

### Preface:

The 1967 Katzenbach Commission developed recommendations for the direction of the Criminal Justice System. Based on their efforts the National Advisory Commission on Criminal Justice Standards and Goals has established nationwide objectives for the system. The Standards and Recommendations proposed herein are intended to contribute to the elimination of crime as a social factor in Delaware. Community Crime Prevention is defined as any activity occurring outside the traditional response of Police, Courts, and Corrections to criminal activity.

In passing, the reader should note the following differentiation between standards and recommendations:

Standards affect governmental agencies, their behavior, attitudes, and procedures. They can (1) be stated in measurable terms; (2) be objectively evaluated; and (3) serve as a basis for legislative or administrative action.

Recommendations are (1) directed at agencies, bodies or individuals not part of government; and (2) are general in nature.

## COMMUNITY CRIME PREVENTION

### OBJECTIVES

#### DELAWARE STANDARD 1: Delinquency

a. Objective: To reduce the possibilities of delinquent behavior. The Department of Public Instruction and local school districts should emphasize career education, accompanied by guidance, counseling, placement, and follow-up services. (Chapter 1)

#### DELAWARE STANDARD 2: Prevention

Objective: To prevent crime through the reduction of criminal opportunity. Crime-prone businesses and other establishments should adopt "target hardening" practices. The State should set minimum standards for a statewide building code incorporating target-hardening suggestions from security and law enforcement personnel. (Chapter 2)

#### DELAWARE STANDARD 3: Prevention and Control of Alcohol and Drug Abuse

Objective: To develop educational programs which stress the dangers of the use and abuse of alcohol and other drugs. (Chapter 3)

#### DELAWARE STANDARD 4: Integrity and Delivery of Services in Government

Objective: To assure integrity and responsiveness in Government. The General Assembly is urged to adopt a Code of Ethics and establish a statewide Board of Ethics to enforce the Code. The Office of the

Attorney General should be adequately funded to permit exercise of its statutory authority to conduct statewide investigations of corruption. (Chapter 4)

## CHAPTER 1

### CRIME PREVENTION, EDUCATION, EMPLOYMENT AND YOUTH SERVICES SYSTEMS

#### DELAWARE STANDARD 1.1: Purpose and Objective of a Youth Services System (L3.1-3.3, K\*)

*If a pilot project is successful and cost effective, the State should establish and maintain a locally operated, independent Youth Services System in each community or region. Control by an agency of the Criminal Justice System must be avoided. Services should be available to all young people within the service area.*

#### DELAWARE SITUATION:\*\*

The Conrad Area School District (as of 1976) is collaborating with other public and private agencies in what appears to be one successful model of a regional Youth Services System. It serves an area which includes, but is not limited to, the Conrad School District.

The Division of Services to Children and Youth, with the assistance of the Juvenile Justice Advisory Group created on November 17, 1976 by Governor Tribbitt's Executive Order #91, is charged with the responsibility of coordinating the State's approach to juvenile justice and delinquency prevention. This Division and the Advisory Group are in position to design and operate a statewide Youth Services System if so authorized.

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\*These numbers are cross-references to the standards in the National Advisory Commission Report (P-Police, C-Courts, R-Corrections, L-Community, and S-Systems). The K refers to the President's 1973 Crime Commission Report commonly known as the "Katzenback Report".

\*\*All Delaware Situations in this chapter are current as of September 1, 1976.

IMPLEMENTATION:

In each community where a local satellite Youth Services System is organized, the objectives and the decision-making structure must reflect the desires of the community within the delinquency prevention framework established by the State.

DELAWARE STANDARD 1.2: Functions (L2.1, L3.3-3.4, L3.6, K)

*The Youth Services System needs to develop only those new services which are currently unavailable or inappropriately delivered to the community it will serve. The Youth Services System should utilize existing services for youth through referral, systematic follow-up, and individual advocacy. Services should be confidential and immediately available in crisis situations.*

DELAWARE SITUATION:

See Standard 1.1.

IMPLEMENTATION:

See Standard 1.1.

DELAWARE STANDARD 1.3: Support Needs of a Youth Services System (L3.5-3.8)

*For an operational Youth Services System, the following needs must be met:*

1. *A full-time, experienced staff to respond to the complex personal crises of youth, to interact with organizations and agencies, and to provide leadership and follow-up.*
2. *Periodic objective evaluation against pre-determined performance measures. Personnel, clients, program content and results should be documented from the outset by a uniform reporting system.*
3. *The State of Delaware must enact enabling legislation to formalize and fund the Youth Services System. The System should be recognized from the beginning as a voluntary alternative for the Juvenile Justice System.*

DELAWARE SITUATION:

School systems are cooperating with local governments both to expand and to create Youth Services Systems where the need is apparent. The present pattern of funding is to use both public and private sources.

IMPLEMENTATION:

The evaluation system should provide for continuation and expansion of the Youth Services System as well as the termination of the System if the objectives are not met within a reasonable period of time.

Enabling legislation should authorize the establishment of the System. It should provide for (1) funding from the State and other sources, (2) definition of its relationship with the Criminal Justice System and social service agencies, (3) channels of authority and accountability, and (4) monitoring and evaluation.

If the Conrad System is to be considered the pilot project for the Youth Services System, cost estimates should be based on its experience. Costs should be calculated on the basis of cost per client.

DELAWARE STANDARD 1.4: Pre-Trial Diversion Programs (L5.3, P4.2-4.4, C2.1-2.2, R4.4, K)

*Community-based, pre-trial diversion programs should be established in all court jurisdictions. Admission criteria and program goals should be clearly defined and individuals participation should be based on joint decisions between prosecutors or courts and offenders. The diversion program should incorporate a flexible continuance period. During this time a person would participate in an individually tailored program for job training. Satisfactory completion of the program would result in job placement and dismissal of the charges. The arrest record would be maintained only for official purposes.*

DELAWARE SITUATION:

The Superior Court sponsors a pre-trial release program which permits low-risk arrestees to continue working while awaiting a court hearing.

There is a federally funded Pre-Trial Intervention Project in Municipal Court (1976). The possibilities are being explored of establishing a program for juveniles.

IMPLEMENTATION:

The Municipal Court Pre-Trial Intervention Project meets the standard; however, there is no assurance of future funding.

A cost benefit study of the programs now operating would show whether there is merit in expanding the programs. If so, funding would be necessary to begin programs in other State courts.

DELAWARE RECOMMENDATION 1.5: Job Opportunities for Target Groups  
(Youth, Offenders, and Drug Users)  
(L5.1, L5.2, L5.4, L5.7, L5.9, K)

*The most important factor in generating additional jobs is overall economic growth.<sup>2</sup> Employers and unions must institute or accelerate programs to expand job or membership opportunities for all target groups. Non-job-related administrative barriers to employment should be removed. Employers should institute or expand training programs to sensitize management and supervisors to the special problems that these groups bring to their jobs.*

DELAWARE SITUATION:

Title 19, Supchapter II, Delaware Annotated Code addresses discrimination in employment. While section 511 states that no child under 14 shall be permitted to work, section 711 states that it is an unlawful employment practice for employers and labor organizations to discriminate on the basis of age.

Since 1969, Project 70,001 has been placing high school drop-outs between the ages of 16 and 22 in entry-level unskilled jobs while tutoring them for the General Equivalency Diploma (GED)

and a better position. Project 70,001 now has a contract with the Department of Labor to develop expansion programs.

The Delaware Correctional System's Work Release Program dates from 1969. In 1972 and 1973 work-release services were expanded at the three (3) correctional centers. Plummer House in Wilmington also offers supportive services such as work orientation, life management, job placement, and frequent follow-up activity.<sup>3</sup> Drug users in State correctional facilities are eligible for the Work Release Program if they meet the requirements.

#### IMPLEMENTATION:

Small businesses, as well as big industry, must be encouraged to voluntarily participate in target group employment programs. Businessmen's organizations, labor unions, and the educational establishment must collaborate in developing apprenticeship and tutoring programs.

Further implementation requires the elimination of arbitrary hiring and exclusionary policies based on drug-related or other criminal records. Bonding requirements should be re-evaluated so that offenders and ex-offenders can be included where appropriate.

Employers should be made aware of the opportunities available through various Manpower programs. They should initiate or strengthen programs to acquaint all levels of supervisors and management with the special problems which target groups may bring to a job. State and local governments should adopt economic growth policies that will expand and enlarge the possibilities of private employment as recommended by the economic development report of the Delaware Tomorrow Commission.<sup>4</sup>

#### DELAWARE STANDARD 1.6: Removing Employment Barriers (L5.5, K)

*The State should enact legislation defining conditions under which arrest and conviction records may be expunged. State Civil Service and private personnel requirements should state that no person may automatically be barred from taking an employment test because of a criminal record.*

### DELAWARE SITUATION:

The State of Delaware is in substantial compliance with the portion of the recommendation that suggests purging arrest records. (See Title 11, Section 3904, Delaware Annotated Code.) Upon petition of a person with no prior criminal record, the Superior Court in the county where that person resides may order that all indicia of his arrest be destroyed.

State and local government positions usually require making application through the merit system. The Job Information Service maintains listings of these positions.

By Executive Order the Governor of the State of Delaware has ordered that all State-level agencies comply fully with anti-discrimination and affirmative action requirements of equal job opportunity mandates. In addition, local governments must comply with the Equal Opportunity legislation to receive Federal grants.

The Anti-Discrimination Section of the State Department of Labor is set up to receive complaints of discrimination. It will investigate any charge that stems from the Civil Rights Act of 1967 and the Equal Opportunity statutes. Problems may originate at municipal, county, or state levels as well as from the private sector.

### IMPLEMENTATION:

Persons presently eligible to have their arrest records expunged should be informed of this right. Assistance should be offered to complete the necessary processes.

Further study of the question of expunging the records of convicted adults is necessary. Recommendations should address specific conditions for such purging.

All target groups (e.g., youth, ex-offenders, and former drug users) should be assisted in applying for public and private jobs.

Legislative and executive branches of government must make the public aware of their support of anti-discriminatory policies in hiring and financial practices. Public agencies can publish business directories indicating which businesses are in compliance with these practices.

Private firms operating in the inner city can enter into long-term contracts with small businesses. Such contracts will help to sustain these struggling businesses. Small businesses as well as big industry must be encouraged to participate in programs which concentrate on hiring youth, the ex-offender, and former drug users.

DELAWARE RECOMMENDATION 1.7: Public Employment Programs (L5.6, K)

*Public employment programs should provide more rewarding and promising jobs for ex-offenders and others traditionally excluded from the job market. These jobs should be characterized by efforts to develop and utilize skills leading to future advancement.*

DELAWARE SITUATION:

Much of the activity in public employment has centered about the C.E.T.A. offices in the State. They have provided programs for job training and placement for those in their target groups (e.g., ex-offenders, minorities, the handicapped, and veterans).

IMPLEMENTATION:

State and local governments must assume responsibility for further development and expansion of public employment programs and for economic growth policies that will elevate the levels of private employment.

DELAWARE STANDARD 1.8: Employment (L5.8, L5.10, K)

*State and local government economic policy should focus on maintaining high aggregate employment levels.<sup>5</sup> The State of Delaware and its units of local government should structure taxes and expenditures to have the greatest positive impact on high poverty areas.*

DELAWARE SITUATION:

The Delaware Tomorrow Commission (January 1976) recommends:

In order to maintain the required level of job opportunities and the general economic health of the State, a vastly improved State economic development program is needed. The State should accept major responsibility for economic development efforts, working closely with local leaders, agencies and groups. In order to establish and improve an edge over competing states, Delaware must be more aggressive in recruiting target business and industry and provide a "quick-response" when opportunities knock. The Governor's personal leadership and involvement is essential to implement a strong State economic development program.<sup>6</sup>

Economic and industrial development agencies have been established by the State of Delaware, New Castle County, and the City of Wilmington.

IMPLEMENTATION:

The Delaware Tomorrow Commission has done an extensive study and documented the State's present situation with regard to economic development and employment.<sup>7</sup>

Legislative and executive branches of government must publicize their support of anti-discriminatory policies in both hiring and financial practices.

Efforts of small businesses to establish themselves in the inner city should be supported by those big businesses and industries which use subcontractors. All must make extraordinary efforts to employ youth, ex-offenders, and rehabilitated drug users.

DELAWARE RECOMMENDATION 1.9: Housing and Transportation Services  
(L5.11)

*Housing and transportation are prime considerations in availability of employment. In and of itself poor housing provides a breeding ground for crime. Discrimination in housing opportunities should be eliminated.*

DELAWARE SITUATION:

Legally, the State of Delaware complies with the discrimination portion of the standard (See Title 6, Chapter 46, "Equal Rights to Housing," Delaware Annotated Code).

In fact, low-income housing is concentrated in the City of Wilmington and has brought the crime situation with it. Similarly, there is a lack of public transportation facilities available to those who cannot find housing close to their jobs. An example is the Marine Terminal in Wilmington where jobs exist but no public transportation is available.

Under Title 2, Section 1601, Delaware Annotated Code, local transportation authorities may be established by the Secretary of Transportation. Currently, there is one such authority, the Delaware Authority for Regional Transportation (DART).

IMPLEMENTATION:

Since poor housing is assumed to be one of the conditions which predispose individuals to crime, greater efforts must be made to expand decent, safe, and sanitary housing throughout the State under both public and private auspices.

The public and the private sectors can also cooperate to improve transportation facilities. Where numbers can justify it, transportation authorities and industrial firms should jointly develop and support a plan for special buses to isolated employers. Car pools should be encouraged.

The appropriate State and local economic development or industrial development agencies should be strengthened to provide needed services to new or expanding industries. See the recommendations of the Delaware Tomorrow Commission.<sup>8</sup>

DELAWARE STANDARD 1.10: The Home as a Learning Environment  
(L6.1, L6.6)

*Educational authorities should adopt experimental and pilot projects to encourage selected neighborhood parents to become trained and qualified to assist their children in the home.*

DELAWARE SITUATION:

There are several projects in the State which are attempting to utilize parents as teachers in the home. For example, in the Wilmington School District the Cedar Hill Elementary School has an early pre-school program which attempts to improve the home environment for learning by working with parents.

IMPLEMENTATION:

A combination of administrative policy decisions and legislation is necessary to implement this recommendation. The legislature must create the position(s) of Coordinator of Volunteers. It is estimated that a statewide, annual cost of \$350,000 would place a coordinator in each school district to help implement such a program.

DELAWARE STANDARD 1.11: Teacher Training, Certification, and  
Accountability (L6.9, K)

*Schools should not have artificial barriers to employing the most competent personnel.*

DELAWARE SITUATION:

The State Department of Public Instruction does not recommend that districts hire persons that have not met the State certification requirements. Districts may hire non-certified personnel out of local funds at their discretion, but such employees are required to complete course work to receive certification.

IMPLEMENTATION:

Standards for certification should be reviewed to emphasize (1) work experience, (2) performance standards as criteria for certification, (3) understanding of the individual school district and its community, and (4) latitude to hire competent professionals trained in fields other than education to perform specialized tasks, including the teaching of subject matter related to their work. Administrative policy decisions can implement these proposals.

DELAWARE STANDARD 1.12: School as a Model of Justice (L6.2)

*School authorities must adopt policies and procedures that allow students to participate in the process of education in a democratic manner. With the cooperation of the law enforcement community, course structure should be designed so students may learn respect for law and constituted authority. All grades, beginning with Grade 1, should have courses pertaining to the Criminal Justice System.*

DELAWARE SITUATION:

All districts have a Students' Rights Policy for all grade levels.

IMPLEMENTATION:

The State Department of Public Instruction should periodically monitor compliance with such policies. Included in the review process should be a survey of disciplinary procedures in the interests of fairness and justice.

DELAWARE STANDARD 1.13: Literacy (L6.3, L6.4, K)

*Since illiterates cannot obtain employment, elementary schools should adopt programs to insure that students will acquire functional literacy in English before leaving elementary school. Special literacy programs should be provided for those mentally, emotionally, or physically handicapped students who cannot succeed in regular programs.*

*Special services must be provided for students to whom English is not the principal language.*

## DELAWARE SITUATION:

At the present time the State Department of Public Instruction has no specific objectives which require literacy by 6th grade. There are plans to review the sequential objectives now used as guidelines.

## IMPLEMENTATION:

A variety of methods must be developed to accomplish this goal:

1. Training of teachers in proven techniques involving students with low literacy prognoses. Bilingual instruction is a necessary adjunct to this effort.
2. Involving parents of students with bilingual backgrounds and other community persons in the school by training and employing as tutors, aides, and assistants. Local projects as suggested in Standard 1.10 would be invaluable to this program.
3. Decentralized control of district finances to provide discretionary funds to site principals and neighborhood advisory committees. Such funds should be directed to the special needs of students, especially in the earlier years of education.
4. Compliance with the Federal Bilingual Law, a part of the Education Act of 1974 (P.L. 93-380).

## DELAWARE STANDARD 1.14: Reality-Based Curricula (L6.5, L6.7, K)

*Schools should develop programs to give meaning to otherwise abstract subject matter. Such programs insure career preparation in an entry-level capacity or entry into an advanced level of study. Considerable numbers of students do not learn in the traditional school setting. Consecutive education should not be mandatory.*

*Educational services within correctional institutions should have the same status as those offered by public school systems, including all special programs offered to students of the public school districts.*

*Personnel from the juvenile correctional system should be included in educational units as defined in Title 14, Delaware Annotated Code. The educational staff within the correctional system should have a separate funding*

*category in the law to bring salaries in line with surrounding school districts. Educational services provided within the Criminal Justice System for students considered errant or not amenable to the normal educational process should be the responsibility of the school system.*

#### DELAWARE SITUATION:

Career Education is the top educational priority of the Executive branch of State government. (The Honorable Sherman W. Tribbitt, Governor of the State of Delaware, was the first governor in the nation to declare a Career Education Week - March 14-20.)

#### IMPLEMENTATION:

The Newark School District Program might serve as a model for a statewide career education program.

Legislation is needed to remove guidance, placement, and follow-up counselors from the "unit" system. Appropriation of \$700,000 (1975 Evaluation Report of the Delaware Advisory Council on Career and Vocational Education) is required to fully implement this recommendation.

Support should be given to the recommendation of the Delaware Advisory Council on Vocational Education calling for cooperation and coordination with all agencies in the State concerned with people and jobs. Funds from all sources, including the Delaware Agency to Reduce Crime, Comprehensive Employment Training Act, etc., must be surveyed to insure that common needs in Delaware are being met by common goals.

The school should guarantee adequate preparation for placement in an entry-level occupation or continued preparation for higher career placement. Educational guidance and placement services should be available within the school structure for all students in order that current high levels of unemployment and underemployment may be reduced.<sup>9</sup>

#### DELAWARE STANDARD 1.15: Average Daily Attendance

*Funding of education should be based on the average daily attendance in order to encourage efforts to maximize educational opportunity.*

## DELAWARE SITUATION:

Funding is presently based on the pupil enrollment as of September 30 of each year. After that date changes in pupil registration in each district will not effect the entitlement for that year. The entitlement is based on the number of units of pupils enrolled. The unit allotment includes the salaries of teachers and operating costs of the districts. One hundred percent of the transportation costs are borne by the State. (See Title 14, Chapters 13 and 17, Delaware Annotated Code.)

## IMPLEMENTATION:

Legislation would be required to make average daily attendance the basis for funding allocation to replace the present unit system.

DELAWARE RECOMMENDATION 1.16: Community Support by the Educational and Religious Communities (L6.6, L6.8, L7.1, L8.1-8.5, K)

*To prevent the increase in crime, the Criminal Justice System needs the support of the entire community. The following means of support are recommended:*

1. *Schools should provide more up-to-date supportive services - health, legal, counseling, and guidance - to facilitate the positive growth and development of students.*
2. *School facilities should be made available to the entire community as centers for human resources and adult education on a 12-month, 7-day-a-week basis. Future State facilities should be multi-purpose in design.*
3. *Recreation programs should continue to be recognized as integral parts of the intervention strategy to prevent delinquency.*
4. *The religious community should play an active role in educating their congregations about crime and providing a forum for discussion and affirmative action on the problems that are discussed. Any community-oriented programs would be helpful in diverting youth.*

## DELAWARE SITUATION:

Each school district must decide what use will be made of its school buildings. Individual school boards may grant requests for the use of school property by citizens groups within the district. (See Title 14, Section 1056, Delaware Annotated Code.)

The Social Awareness and Action Ministry of the Delmarva Ecumenical Agency is creating task forces of persons of all denominations to discuss current social issues. A Criminal Justice Task Force is included among these.

The Criminal Justice Task Force has sponsored a seminar at the Delaware Correctional Center at Smyrna to open a channel of communication between the prisoners and the Task Force and is planning further meetings.

The Catholic Diocese of Wilmington has chaplains assigned to all the correctional facilities in the State while other denominations have chaplains hired by the correctional facility itself. Plans are being made to identify and find chaplains for institutions where there is a need.

## IMPLEMENTATION:

In order to provide the above support, the following means are recommended:

1. Schools should provide more up-to-date supportive services — health, legal, counseling, and guidance — to facilitate the positive growth and development of students.
2. School facilities should be made available to the entire community as centers for human resources and adult education on a 12-month, 7-day-a-week basis. Future State facilities should be multi-purpose in design. An evaluation of the Utah "Community School" concept might be a starting point for creating a Delaware solution.<sup>10</sup>

3. Recreation programs should continue to be recognized as integral parts of the intervention strategy to prevent delinquency.
4. The religious community should play an active role in educating their congregations about crime and provide a forum for discussion and affirmative action on the problems that are discussed. Any community-oriented programs would be helpful in diverting youth.

Use of school, church, and other public buildings will entail costs which cannot be estimated at this time. A copy of this Recommendation should be sent to every religious community in Delaware.

FOOTNOTES

<sup>1</sup>Delaware Agency to Reduce Crime, 1976 Comprehensive Plan, pp. 114-115.

<sup>2</sup>Draft Report of the Delaware Tomorrow Commission, September, 1975.

<sup>3</sup>1976 Comprehensive Plan, p. 118.

<sup>4</sup>Delaware Tomorrow Commission.

<sup>5</sup>Ibid.

<sup>6</sup>Ibid., p. 35-36.

<sup>7</sup>Ibid.

<sup>8</sup>Ibid.

<sup>9</sup>Ibid.

<sup>10</sup>Community Crime Prevention Task Force, Utah Law Enforcement Planning Council, Community Crime Prevention and Education, December, 1974, pp. 39-45.

## CHAPTER 2

### REDUCTION OF CRIMINAL OPPORTUNITY

#### DELAWARE STANDARD 2.1: Use of Building Design and Streetlighting to Reduce Crime (L9.1-9.3)

*Delaware's units of local government should consider the crime rate in determining streetlighting needs. A statewide minimum building code which includes "target hardening" should be adopted and enforced, keeping in mind the needs and wishes of the communities affected. Target hardening is the process of making homes, commercial and office buildings, etc., less accessible to criminals.*

#### DELAWARE SITUATION:\*

Many jurisdictions already have lighting ordinances. For example, New Castle County residents may have street lights installed by petition of a majority of residents in a district. Households are then assessed a "special lighting district" tax which amounts to approximately \$10.00 per year.

#### IMPLEMENTATION:

Legislative action would be needed to enact minimum standards for statewide building codes which include "target hardening". Local governments would continue to have the responsibility of adopting and enforcing such codes.

#### DELAWARE STANDARD 2.2: Shoplifting Prevention and Citizen Protection Measures (L9.4, L9.6, P3.2)

*In consultation with law enforcement agencies, all retail establishments should take immediate and effective measures to prevent shoplifting. All law enforcement agencies should be equipped and trained to provide services to business establishments in their areas.*

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\*All Delaware Situations in this chapter are current as of September 1, 1976.

#### DELAWARE SITUATION:

The Security Committee/ASIS of the Delaware State Chamber of Commerce compiles and circulates a security newsletter to its members. Similarly, the Delaware Association of Bank Security (DABS) operates a separate clearinghouse for its own special purposes. State police and some local police forces provide information on request.

#### IMPLEMENTATION:

The pooling of the above efforts and those of other private sources with the efforts of the State and local police could maximize the effectiveness of the suggested clearinghouse.

#### DELAWARE STANDARD 2.3: Auto Identification Programs and Legislation

*State motor vehicle officials should make every effort to properly maintain an around-the-clock computer system for checking suspected stolen vehicles. The State should take steps to reduce the backlog of information on file concerning vehicle registrations and changes in same. To assist in identification, the original car registration form should include the color of the vehicle.*

#### DELAWARE SITUATION:

New legislation has recently been passed which broadens police authority in auto theft. All the new legislation is contained in Title 21, Delaware Annotated Code.

Section 2316 concerns the alteration or forging of certificates of title, manufacturers' certificates of origin, registration cards, vehicle warranties, certification stickers, or VIN (vehicle identification) plates.

Section 2512 covers the responsibility of the owner of an unusable vehicle to remove the series number plates and registra-

tion and return them to the Division of Motor Vehicles within 30 days. Section 2513 concerns the duty of owners in reporting stolen vehicles.

Section 4604 addresses the possession of motor vehicle master keys, devices, lock picks, etc., and mandates such possession as a Class E felony.

Section 6708 covers the possession of blank titles, blank registration cards, VIN plates, warranty stickers, or registration cards. Section 6709 mandates the removal of warranty or certificate stickers, VIN plates, or confidential VIN plates. Section 6710 concerns the unlawful possession of assigned titles, assigned registration cards, VIN plates, or warranty stickers. Section 6715 concerns the registration of junked motor vehicles and Section 6716 covers rebuilt motor vehicles. Section 6717 addresses the admission of police and the issuing of administrative search warrants. It mandates the right of police to inspect the paperwork or property of businesses or dealers in motor vehicles.

CLUES (Criminal Law Uniform Enforcement System) and the Department of Motor Vehicles have compatible systems; however, the lack of staffing at Motor Vehicles has created a backlog in entering data.

At the present time the registration form does not include color of the vehicle.

#### IMPLEMENTATION:

This can be accomplished by administrative agreement among the affected agencies. An amendment is needed to Title 21, Section 2104, Subsection b.2, Delaware Annotated Code to include the color of the vehicle in the registration form. Minor cost could possibly accrue for additional computer operation, maintenance personnel, and the printing of new registration forms.

## CHAPTER 3

### PREVENTION AND CONTROL OF ALCOHOL AND DRUG ABUSE

DELAWARE STANDARD 3.1: Multimodality Treatment Systems (L4.1-4.3, L4.5-4.8, L4.11, L4.12)

*Drug-abuse treatment should be coordinated through the Bureau of Substance Abuse. There should be a variety of treatment approaches available on a regional/local basis in areas having a significant population of drug users; special emphasis should be given to the youthful abuser.*

*The responsibilities of such a coordinating agency should include (1) setting the priorities of service delivery; (2) setting standards for staffing, training, administration, and programming; (3) continual evaluation of programs in accordance with the defined priorities; and (4) coordination of prevention programming.*

#### DELAWARE SITUATION:\*

The State of Delaware is in substantial compliance with the standard. Title 29, Section 7918, Delaware Annotated Code (Revised) created the office of Drug Abuse Coordinator in the Department of Health and Social Services and assigned duties and responsibilities conforming with this standard. Section 7919 established a five-person Council on Drug Control to serve in an advisory capacity to the Secretary and the Coordinator. The Office of Drug Abuse Control has been designated by Executive Order as the single agency responsible for planning and coordinating drug-related activities and for receiving Federal funds for this purpose.

As of May 1, 1976, the Office of Alcoholism Services merged administratively with the Office of the Drug Control Coordinator under the supervision of the latter. The combined agency now has

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\*Delaware Situation is current as of September 1, 1976.

the title of the Bureau of Substance Abuse within the Division of Mental Health of the Department of Social Services.

Residential Programs: A Central Intake and Diagnostic Unit within Delaware Correctional Center (to be operational 1/1/77) has been developed by the Bureau of Substance Abuse in conjunction with the Bureaus of Adult and Juvenile Correction and the Division of Mental Health. The development of such a concept is mandated by LEAA Guidelines (Part E) and by a 1977 DARC Plan target goal.

Crisis Intervention and Emergency Treatment: Wilmington Medical Center is operating a revised C.I.D.S. (Central Intake Diagnostic Services) Unit as a fully accredited hospital unit with an emphasis on out-patient detoxification whenever possible.

Therapeutic Community Programs: Educational and therapeutic services are being offered at SODAT (Services to Overcome Drug Abuse Among Teenagers), an adolescent home for 25 youngsters (male and female) aged 12 to 18.

#### IMPLEMENTATION:

Due to the infinite number of variables, the eventual cost of full implementation of this standard cannot now be estimated. Service can be improved without substantial increases in costs where agencies can coordinate their administrative policies. In some areas the basic components of the proposed programs are already in existence.

1. Crisis intervention: Commitment of hospital, criminal justice agencies, and public and private programs could be brought about through administrative coordination. The terms of compulsory treatment should be reviewed and legally clarified.
2. Title 11, Section 4213, Delaware Annotated Code (Revised) permits an arresting officer to offer the arrestee the option of detoxification, provided the offense involved is not a felony. Legislation may be required to make this option available also at a later stage of the proceedings while the detainee is in pre-trial status.

3. Programs to encourage training and employment for drug abusers or former abusers can be provided by administrative arrangement and will incur costs proportionate to the amount and quality of service provided. However, there are possible "trade-offs" against the costs to society of maintaining unemployed or unemployable persons on drugs or the costs of incarceration.
4. Residential treatment programs can be established without any additional legislative authorization; however, funding and administrative action are necessary to accomplish the intent of the recommendation.
5. An open facility such as a halfway house is estimated to cost in the neighborhood of \$80,000 per year. If donated facilities were available, the yearly cost for a halfway house would be \$50,000.
6. The Court Referral Program can be implemented by administrative action. Before cost estimates can be arrived at there must be agreement on the scope and goals of the program.
7. The annual cost of implementing a double-focus drug/alcohol prevention and education program is estimated to be \$250,000.

## CHAPTER 4

### INTEGRITY IN GOVERNMENT

DELAWARE STANDARD 4.1: Ethics Code, Administration, and Enforcement (L10.1, L10.2)

*There should be a single statewide Code of Ethics in the State of Delaware covering elected and appointed officials as well as employees at all levels of government with a Board of Ethics to administer it. It should be uniformly enforced throughout the State. The Board of Ethics should be independent of any and all other agencies.*

DELAWARE SITUATION:\*

The General Assembly has enacted laws regulating the conduct of officers and employees of the State of Delaware which were signed by the Governor on July 29, 1974. These regulations are contained in Title 29, Sections 5851 to 5858, Delaware Annotated Code (Revised). Administration and enforcement of the Code of Ethics has been delegated to the State Personnel Commission in Title 29, Section 5858, Delaware Annotated Code (Revised).

The Delaware Constitution of 1897 permits the Governor to remove "any" public official for cause (Art. XV, Sec. 6); the General Assembly has the right of impeachment (Art. III and Art. VI); judicial officers answer to the Court on the Judiciary (Art. IV, Sec. 37); and each House of the General Assembly has the right to punish any of its members for "disorderly behavior" (Art. II, Sec. 9). (See also Art. II, Sec. 9, 14, 20, 21, 22 and Art. IV, Sec. 37.)

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\*All Delaware Situations in this chapter are current as of September 1, 1976.

## IMPLEMENTATION:

The present Code of Ethics covers only State employees. It should be reviewed as to its applicability and expanded to cover all appointed and/or elected positions in State and local governments. (Minority opinion: A separate Board of Ethics should be established for each political subdivision.)

The Governor should appoint members of the Ethics Board or Commission from the public at large, chosen from lists submitted by the State Bar Association, civic and professional organizations, and other citizen groups. Such appointments should be subject to approval by the State Senate or other independent body already empowered to pass on fitness of candidates for public office. Only a simple majority of the Board should be of the same political party. Board members and staff should be subject to all laws and regulations relating to political activities by State and local government employees.

Funding will be needed to cover costs of staffing and is the most justified area for such funding.

A study should be conducted to determine the extent of public disclosure to be made and whether subpoena powers should be granted the Board.

DELAWARE STANDARD 4.2: Financial Disclosure for Public Officials and Candidates for Public Office (L10.3, L10.4, L11.1, L11.4)

*There should be strong and enforceable legislation requiring full and complete disclosure of all sources of income by all public officials and candidates aspiring for public office in order to eliminate the possibility of conflict of interest.*

## DELAWARE SITUATION:

Disclosure of financial information and of possible conflict for State employees is required by Title 29, Section 5855 (f), Delaware Annotated Code. Members of the General Assembly and the judiciary are not covered. This is limited disclosure under specific circumstances. A Board of Ethics under the State Personnel Commission is empowered to administer the Code.

New Castle County has an official Code of Conduct administered by a Board of Ethics which specifically addresses problems of conflict.

Some municipal charters, including Newark and Wilmington, deal with conflict of interest in their charters and/or municipal codes but do not require financial disclosure.

Under present Delaware law, candidates for public elective office, both State and local, for which the remuneration is \$1,000 or more per annum, and official committees supporting such candidates must voluntarily file income and expenditure reports with the State Election Commissioner. There are strict limitations on amounts and kinds of both contributions and expenditures as well as limitations on allowable totals. Timely reports must be filed with the Commissioner of Elections who must make them available to the public on request.

Superior Court has jurisdiction over violations which are classified as Class B misdemeanors. Special provision is made for a situation in which a violation complaint might be brought against the Attorney General.

#### IMPLEMENTATION:

New legislation should be drafted to strengthen financial disclosure and conflict of interest provisions, including the following:

1. Requirement for yearly financial disclosure applying to all elected or appointed officials and candidates, both State and local, receiving remuneration from public funds and exercising or seeking to exercise ministerial functions.
2. Exclusion from the above of unpaid members of advisory boards and commissions who do not have the authority to expend public funds and of members of public school faculties who have only teaching duties.

3. Requirement that candidates for office under 1 above file such disclosure in addition to disclosure requirements under applicable campaign financing laws.
4. Designation of an independent five-member Ethics Board or Commission to receive such reports. Members of such a Board could not be direct or indirect beneficiaries of public funds except for services rendered to the Board and would be appointed by the Governor with the advice and consent of the Senate. No more than two (2) members of the Board could be of the same political party. The Board would be staffed by a director and investigative personnel.
5. Requirement that disclosure cover financial interest of dependent children and spouse as well as the employee or candidate. The following elements should be included:
  - a. Any business in which the individual is a director, officer, partner, trustee, owner, employee, or holder of an interest worth \$1,000 or more.
  - b. Statement as to whether the firm or corporation has done business with the State or is regulated by the State or a political subdivision.
  - c. Any sources of income of \$1,000 or more received during the reporting period, and whether the source has been engaged in business with the State or a political subdivision.
  - d. The name of any creditor of \$1,000 or more (excluding retail installment purchases).
  - e. Legal description of any real property worth more than \$2,500.
  - f. Source of any gift received valued at more than \$25 (excluding gifts from close relatives).
  - g. In the case of attorneys, source of any legal fees exceeding \$2,000 for the reporting period or 5% of the firm's business.
  - h. Source of any honoraria, plus any other such information that the board deems necessary to carry out the purposes of the legislation.
  - i. Requirement that officials and employees disclose any financial dealings or funds received from the State or any political subdivision other than compensation for official duties.
  - j. Provision that all information be available to the public but be protected from commercial exploitation.

- k. Provision that all agencies and political subdivisions file with the Board or Commission alphabetical listings of persons, corporations, or businesses to which public funds are disbursed. The Commission should compile a master list in alphabetical order. All lists should be open to public inspection and copy.
1. That the Board or Commission have additional power to subpoena documents and witnesses required for an investigation and examine same under penalty of perjury.

DELAWARE STANDARD 4.3: Delivery of Government Services (L2.1-2.6, L13.1-13.3, K)

*To insure government responsiveness to the need for services, it is recommended that:*

1. Resources in the State of Delaware be allocated on the basis of State and local need.
2. There be ongoing evaluation of the concept of neighborhood and regional social service centers to achieve the most decentralization compatible with effective management and delivery of services.
3. "Right-to-know" laws be enacted that are enforceable and severe penalties be mandated for willful violation. All jurisdictions should make the decision-making process available to the public especially in the areas of zoning, licensing, and tax assessment.
4. Officials be mandated by law to hold convenient public hearings on all substantive issues and to provide for maximum information dissemination and feedback. Pending and final actions in all areas should be publicized to the media, public interest groups, and any citizen requesting regular summaries. These summaries should be in layman's language.

DELAWARE SITUATION:

"Sunshine" legislation has recently passed the Delaware General Assembly.

Title 22, Section 306, Delaware Annotated Code provides for local zoning commissions to hold public hearings on their preliminary reports before submitting a final version.

All three (3) counties and several municipalities provide hearing opportunities for tax assessment review. For further information see Title 9, Sections 1308, 7004, and 8311, Delaware Annotated Code.

IMPLEMENTATION:

The present "sunshine" legislation should be reviewed to insure that it is complete and comprehensive.

To insure fair treatment, public decisions should (1) employ publicly established criteria; (2) be based on rational documentation; (3) operate within specified time frames and processing stages; (4) use random assignment of reviewing or inspecting personnel and standardized review forms; (5) keep adequate records for all activities and utilize regular performance audits by an outside agency; and (6) clearly and publicly specify complaint and appeal procedures.

The basis for zoning, licensing, and tax assessment decisions should be (1) publicly adopted master plans, ordinances, or stated public goals; (2) a checklist of specific criteria; and (3) an explanation of the weight given to each criterion.

DELAWARE RECOMMENDATION 4.4: State Purchasing Capability (L2.7, L12.1)

*All units of government should cooperate in bulk purchases of goods and services in order to save money.*

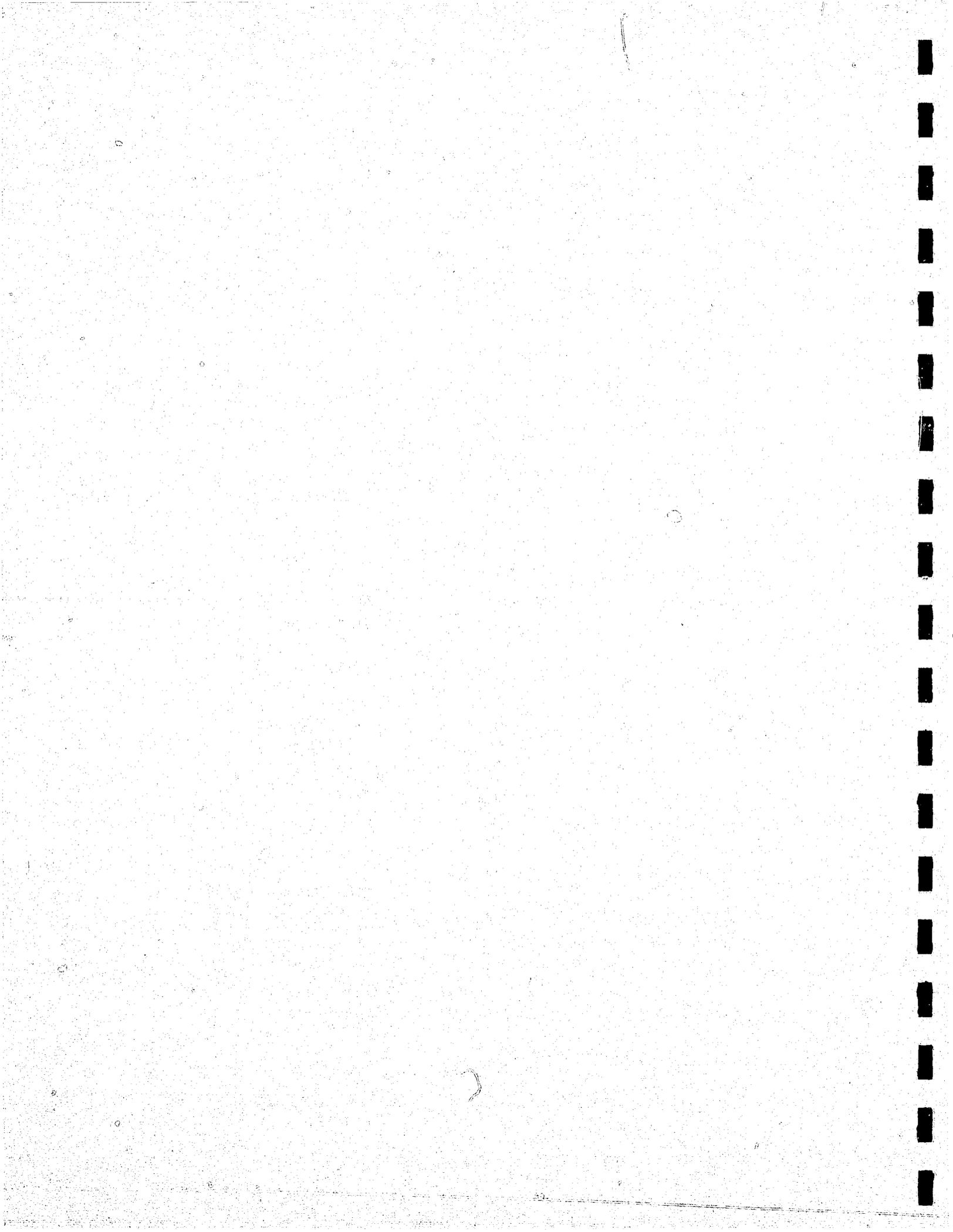
DELAWARE SITUATION:

The General Assembly has empowered the department of Administrative Services, through its Purchasing Division, to inaugurate a central purchasing system for those State and local units of government desiring to participate. (See Title 29, Section 6804, Delaware Annotated Code.)

IMPLEMENTATION:

The Purchasing Division should:

1. Efficiently and effectively serve all State agencies.
2. Actively seek the cooperation of local units of government.
3. Create a clear avenue of appeal for vendors questioning purchasing actions or decisions on State contracts. The appeal system should be available to any local government which wishes to use it.
4. Establish a cost-effective "Central Store" method of supply for routine needs of State and local governments. Where savings can be effected, local units of government should be encouraged to use the "Central Store" method. There could be substantial cost savings even where a user's fee might be charged.
5. Study the Model Procurement Code presently being developed by the ABA to determine its applicability to the State of Delaware.



## POLICE

### Preface:

Police forces exist for the purpose of maintaining order and controlling conduct which is legislatively defined as crime. This purpose is central to the definition of the police role. Over many years a multiplicity of service functions has developed around the concept of the police role; thus, a precise definition is increasingly more important. Further, improvement of the Criminal Justice System as a whole requires cooperation and coordination among the system components.

The thrust of organized law enforcement organizations should be:

1. To control and reduce crime.
2. To apprehend offenders and obtain their conviction in court.
3. To provide for the safety and well-being of the citizen.

The standards for police in the State of Delaware are concentrated on four (4) general areas: (1) the police role; (2) improved agency management; (3) improved training, compensation, and career development; and (4) equipment, data management, and communications.

In passing, the reader should note the following differentiation between standards and recommendations:

Standards affect government agencies, their behavior, attitude, and procedures. They can (1) be stated in measurable terms; (2) be objectively evaluated; and (3) serve as a basis for legislative or administrative action.

Recommendations are (1) directed at agencies, bodies, or individuals not part of government; and (2) are general in nature.

POLICE  
OBJECTIVES

DELAWARE STANDARD 5: Control of Crime

- a. Objective: To improve delivery of police services.  
(Chapter 5)
- b. Objective: To actively involve police in community physical planning and target hardening. (Chapter 5)
- c. Objective: To study and modify the role of the patrol officer and his relationship to crime control. (Chapter 5)

DELAWARE STANDARD 6: Effective Operations

- a. Objective: To create a statewide Minimum Standards Commission to establish and enforce standards for police officer selection, recruitment, retention, promotion, compensation, training, and education. (Chapters 7 and 8)
- b. Objective: To design and implement a statewide police communications plan under the supervision of a representative police communications council. (Chapter 5)
- c. Objective: To provide technical assistance by the State to local police forces in those fields of operation where the municipality lacks the resources to support specialized services; i.e., forensic sciences, investigation, etc. (Chapter 6)

## CHAPTER 5

### THE POLICE ROLE IN CONTROLLING CRIME

#### DELAWARE STANDARD 5.1: Management of Police Services (P1.1, P2.1-2.2)

*It is the responsibility of the State of Delaware and of those units of local government providing police services to adopt organizational structures which effectively deliver competent police services. Each police administrator must define workable goals, objectives, and priorities consistent with the community where the agency is located. Depending on the tasks required of the agency, the organizational structure may vary from the most formal to one much less traditional. All practices followed by the agency should be subject to annual review.*

#### DELAWARE SITUATION:

An inventory of technical-assistance needs and resources is presently being developed under a Federal grant to the Delaware Agency to Reduce Crime. Management assistance will be included.

Assistance is also available on a consulting basis from the Department of Justice (LEAA), the IACP (International Association of Chiefs of Police), the FBI, the Police Foundation, and various institutions of higher education.

#### IMPLEMENTATION:

State legislation is required to authorize flexibility in the allocation of financial resources (on the State level). Most aspects of the standard can be administratively implemented within those municipalities which offer police services.

Technical assistance consultants and the costs of publication would be the major financial outlays involved in this activity. A range of \$25,000 to \$35,000 is estimated.

DELAWARE STANDARD 5.2: Planning for Police Services (P1.1, P5.1-5.4, P7.1-7.6, K)

A. PLANNING FOR MANAGEMENT

*Police agencies should stress continual planning in all areas of responsibility. The need for police participation in community physical planning must be emphasized. Such participation would have a direct bearing on the nature and frequency of crime.*

*A specific department or person should be assigned to planning for the agency. Part of this unit's responsibility would be collaborative efforts with neighboring agencies. Criteria should be established for training agency planners. If the agency's planning needs cannot be satisfied by agency personnel, interagency agreements or consultant services may be utilized.*

DELAWARE SITUATION:

Although there is a widespread recognition among police in Delaware of the value of planning, only the larger agencies (i.e., Delaware State Police, Wilmington Bureau of Police, New Castle County, and Newark) have designated specific personnel to carry out the function.

Local police chiefs meet together on the County and State level (Regional Council of Chiefs of Police) to discuss mutual concerns, some of which are planning-related.

The Delaware State Police and the Regional Council together form a consortium employing a field planner to coordinate input into the annual Comprehensive Plan of the Delaware Agency to Reduce Crime. Similarly, New Castle County has the services of a field planner who includes police among his other criminal justice-related functions.

IMPLEMENTATION:

Administrative action by individual agencies or groups of agencies will implement the standard. Costs would consist of salaries and/or consulting fees. Where the planning capability is shared among agencies, costs would be distributed proportionately on the basis of written agreements.

## B. PLANNING FOR EMERGENCY SITUATIONS

*Each chief of police should have authority to command all police resources in his jurisdiction during an emergency. Only when a State-of-Emergency is declared by the Governor, when there is a breakdown of local authority, or by mutual agreement should this authority be pre-empted. In cooperation with related local, State, and Federal agencies, the police executive must plan for effective use of police resources in all conceivable emergency situations.*

*All personnel must undergo formal emergency training. It is recommended that related public and private agencies be offered opportunities to participate in such training.*

*All available alternatives to mass arrests should be explored. If arrests prove to be the only usable alternative, provision (through a central clearing-house) should be made for public dissemination of names and charges as quickly as possible. Adequate security must be provided for both prisoners and officers while safeguarding prisoner rights and preserving evidence.*

### DELAWARE SITUATION:

The Police Mutual Aid Agreement (See Title 11, Chapter 19, Subchapter III, Delaware Annotated Code) specifically defines procedures to be followed in military and civilian emergencies.

Authority is given the governing body of a county, city, or town to enter into mutual-aid agreements under conditions assuring indemnification for property damage or personal injury. There is no specific reference to reimbursement for extraordinary costs. Some local charters and codes provide for emergency activities.

Chapter 31, Subchapter II, Delaware Annotated Code outlines the procedures for the Governor to use to proclaim a State-of-Emergency and the restrictions that may be imposed under such circumstances. Specific penalties are provided for destruction of property or injury of persons.

## IMPLEMENTATION:

Present legislation should be amended or new legislation enacted to allow (1) emergency detention facilities and procedures; (2) emergency adjudication procedures; and (3) reimbursement to State and/or local agencies for extraordinary costs involved in reacting to emergencies (i.e., conventions, VIP visits, disaster situations).

Regular practice sessions of simulated emergencies should be held to maintain readiness for any situation.

## DELAWARE STANDARD 5.3: The Necessity of Cooperation and Coordination of Police Services (P4.1-4.2, P4.5)

*The key to effective delivery of police services is sound organizational structure. There should be cooperation among the elements of the Criminal Justice System. Liason must be developed by the police with (1) local courts, prosecutors, justices of the peace, and local aldermen; (2) Family Court; (3) corrections agencies, probation, and parole; and (4) Federal, State, and local law enforcement agencies.*

*With the cooperation among the various elements of the system, consideration should be given to the formation of area-wide criminal justice coordinating councils. The goal of such a council would be the fair and effective disposition of criminal cases. Further objectives would be to (1) cut processing time of criminal cases to sixty (60) days from arrest to trial; (2) negotiate agreements allowing on-duty officers to be on call when subpoenaed to testify; (3) coordinate training programs stressing the interdisciplinary aspects of the system; and (4) encourage and coordinate task-force efforts relating to major crime problems.*

*There are alternative ways to achieve consolidation of police services. One cost-effective form is to combine a specific functional area with its counterpart in other agencies. When local areas lack the manpower or the funds to make changes, State aid may be necessary. Consolidation of services can be recommended only if it will provide more efficient levels of prevention, deterrence, or investigation of crimes.*

*Police services of all kinds should be subject to annual evaluation and review by the appropriate unit of government. Efficiency of operation, cost effectiveness, and questions centering around improvement through consolidation should be the principal criteria applied.*

## DELAWARE SITUATION:

The only purchase-of-services agreement in Delaware today is between the Town of Middletown and New Castle County. The County

supplies full-time police services at an annual fee. This agreement has been in effect for three (3) years and appears to be satisfactory to all concerned.

The Mutual Aid Agreement Act (See Title 11, Chapter 19, Subchapter III, Delaware Annotated Code) applies only to those situations defined in the Code as emergencies; however, police agencies are not precluded from working out mutual aid or contractual agreements.

#### IMPLEMENTATION:

There exists a variety of models for full or partial consolidation of services ranging from full consolidation through metropolitanization, interagency agreements of various kinds, and sharing of support and ancillary services. Government entities should study and analyze the possibilities of restructuring police components to achieve efficiencies and cost benefits while keeping the responsiveness to the people in mind.

Local police agencies should be permitted by legislation to enter into mutual-aid agreements or purchase-of-services contracts with the approval of the applicable governing body.

There is the possibility of savings to the taxpayer by the elimination of duplicative services; costs would accrue should new services be required. The net result should be a better response to the needs of the community.

#### DELAWARE STANDARD 5.4: Police Information and Communications (P24.1-24.4, S4.1-4.2, S4.4-4.8)

*Police agencies should agree upon a standard format for written and electronic communications. Reporting should begin with the patrol officer; the reporting format should be reviewed periodically to assure that basic information is being filed. Adequate storage, collection, and retrieval capacity is necessary for identification purposes.*

*Communication, both inter- and intra-agency is essential to prompt and efficient police response. Provision should be made for field officers to report routine matters by telephone in order to conserve the time which patrol units need for high-priority duties. The agency should maintain records including:*

1. *Warrant notification - The issuing agency should be notified of contact or arrest within three (3) hours. A description should be included with the notification.*
2. *"Reportable incident file" - It should contain documentation of all crimes and essential non-criminal incidents.*
3. *Notice of transfer of information to the central storage file available to all agencies - Ideally, extraction time from the central file should be three (3) minutes for non-computer requests and 30 seconds for computer requests.*

*All police agencies should have the capability to communicate with field units, other police agencies, governmental agencies, and the general public. A communications council should be created to develop plans for the most efficient use of telephone, radio, and telecommunications. Consideration should be given to the question of the "911" system. It is suggested that the State of Delaware establish a communications network among all police agencies.*

#### DELAWARE SITUATION:

Delaware is in the process of achieving substantial compliance with the portion of the standard which suggests a State summary file as part of the CLUES Comprehensive Data Plan.

A federally funded statewide communications study is presently underway (June 1976) and will include municipal police, justices of the peace, constables, fire communications, and environmental police. RECOM is the regional communications network in use in New Castle County. It is also used by the State Police and the Elsmere Police Force. The City of Wilmington has its own communications system.

#### IMPLEMENTATION:

Warrant notification to the issuing agency should be mandated by law. The remainder of the standard can be implemented administratively by agency agreements. Much of the implementation hinges on agreements to use the CLUES Comprehensive Data Plan.

Cost factors implied in this standard are substantial. The communications area needs much improvement; research is needed to attach dollar figures to a staged implementation plan. Once the communications study is completed, costs of implementation will be available.

DELAWARE STANDARD 5.5: Personal Equipment and Transportation for Officers (P21.1-21.3, P22.1-22.3)

*Police executives should be assured funds to provide a complete complement of personal equipment (i.e., uniforms, firearms, and auxiliary equipment) and transportation for each officer. There should be no cost to individual officers. Regular replacement policies or an equipment allowance should replace items as needed.*

*Standard specifications should be drawn up for all equipment. "Specs" for many items should be standardized statewide to permit bulk purchasing (See Community Crime Prevention Recommendation 4.4). Daily uniform inspections and frequent equipment checks will assure that each officer maintains his appearance and equipment. All officers should be required to maintain weapons proficiency ratings.*

*Only the individual police agency can evaluate its transportation needs. Efficient use of human resources and cost-effectiveness are essential. Efficient vehicle use will increase on-street time for patrol officers. Where forms of transportation (i.e., aircraft) are too expensive for individual agencies to acquire and support, it is suggested that several police agencies share the expense of acquisition, training, and use.*

*Vehicle safety is essential. Officers should have defensive driving courses; there should be regular inspection of all vehicles. Officers should be involved in determining the causes of accidents and other transportation-related problems.*

DELAWARE SITUATION:

The larger agencies are in compliance with the provisions of this standard. The compliance of smaller agencies varies with resources. The Delaware State Police maintains the only police aircraft capability within the State. This aircraft is available on request to local police agencies.

IMPLEMENTATION:

Support by the police executive of the provisions of this standard is necessary for implementation. In addition, legislation is required to enforce a distinction between the insignia used by authorized police and those adopted by private security agencies.

State purchasing capabilities should be expanded to include police equipment for transportation, communications, and uniform needs as well as weapons and expendable material.

DELAWARE STANDARD 5.6: The Patrol Officer - His Role and Deployment  
(P8.1-8.3, P9.7, S4.3)

*The police executive should recognize that the patrol officer is the most important element of his agency. The role of the patrol officer should be defined in terms of the operational objectives and priorities of the agency and reflect the most effective use of his time and abilities.*

*The police executive should seek community and agency recognition for outstanding officers. He should develop policies which attract and retain highly qualified personnel.*

DELAWARE SITUATION:

Many of the larger police departments in the State of Delaware have been using such scientific deployment methods as the modified census grid for reporting and assignments for more than a year.

<u>Types of Patrol Used by Agencies with Two (2) or More Officers</u>	<u>State</u>	<u>Local</u>
One-Man Auto	X	24
Two-Man Auto		11
Foot		14
All the Above		9

Civic and service organizations collaborate with some police departments to sponsor "Officer of the Year" competitions.

IMPLEMENTATION:

Much of this standard can be met administratively. Completion and full utilization of the CLUES system would provide assessment of police needs in a given jurisdiction at a given time.

Each officer should be aware of the order of priorities of his agency. Agencies should actively seek ways of offering public recognition to patrol officers. Police executives should support the expansion of the classification and salary system to give greater advancement opportunities within the ranks so that extraordinary competence can be recognized in a meaningful way.

DELAWARE STANDARD 5.7: Team Policing (P3.1, P6.1-6.2, K)

*One of the various systems of team policing should be adopted by the larger police departments if it can be shown through study that such a plan will increase the efficient use of the agency's resources. With the adoption of a team policing plan, programs must be developed for the training of personnel involved in that plan.*

DELAWARE SITUATION:

There is presently no team policing effort under way within the State.

IMPLEMENTATION:

The commitment to team policing is an administrative decision. It might rest upon carefully designed and evaluated pilot projects which would indicate the best system to use.

DELAWARE STANDARD 5.8: Internal Communication and Public Information (P1.2, P1.4-1.7, S4.1, S4.3, K)

*Each police agency should have written policy defining the role of each classification of police officer. Police officers should be given explicit direction based on the demographic information supplied by the CLUES police module.*

*Each police executive should assign an officer as the Public Information Officer on a full- or part-time basis depending on agency size. There should be a pro-active rather than re-active cooperation with the news media.*

DELAWARE SITUATION:

See Criminal Justice System Standard 16.2. Only the State Police and the largest municipal agencies in Delaware make provision for a Public Information Officer or recognize officially the need to create understanding of a variety of cultures in the various ethnic enclaves of the State.

## IMPLEMENTATION:

The implementation of this standard is administrative. Some costs would accrue for the salary of the Public Information Officer, possible consultant services, or tuition for coursework in language training or behavioral sciences.

## DELAWARE STANDARD 5.9: Alternative Methods of Casehandling and Follow-up Procedures (P4.3-4.4, P9.5, C2.1-2.2, K)

*Police agencies should be permitted by law to divert individuals from the Criminal and Juvenile Justice Systems. Each agency should make maximum, effective use of the statutes which permit the issuance of written summons and citations in lieu of arrest or pre-trial confinement. The police executive should initiate procedures to follow up the disposition of criminal cases originating in the agency. Liaison should be established and maintained with courts and social agencies.*

## DELAWARE SITUATION:

Title 11, Chapter 19, Sections 1907 and 1908, Delaware Annotated Code permits some reasonable discretion in the use of summons and release of arrestee instead of arraignment before a magistrate.

## IMPLEMENTATION:

Legislation is needed to specify conditions under which police may divert persons coming into contact with the Criminal Justice System. Such legislation should include the removal from the police agencies of the responsibility for transporting the mentally ill, unless they are a danger to themselves or the community.

The remainder of the standard can be implemented by administrative action of the various police executives.

## DELAWARE STANDARD 5.10: Fiscal Management and Funding (P5.6-5.8)

*The responsibility for fiscal management is the police executive's. Budgeting should be an integral part of effective management planning. If needed, a fiscal affairs officer should be assigned to fiscal planning and budgeting.*

Police executives and fiscal affairs officers should be thoroughly familiar with all means of securing funds available to the agency. If necessary, an individual should be trained and appointed to handle the procurement of such funds and to maintain communications with the fiscal and budget officers of the jurisdiction.

DELAWARE SITUATION:

In general, police operations are carried out in a climate somewhat remote from that of a jurisdiction's budget and fiscal personnel. Local police budgets in Delaware ranged in 1975 from \$22,000 (Delmar - five (5) sworn officers) to \$4,969,000 (Wilmington - 255 sworn officers). Both the City of Wilmington and New Castle County are included in this range. FY75 budgets were reported as follows:

State Police Budget	\$ 8,882,000
Total Local Police Budgets	12,681,000
Total Local Police Budgets by County	
New Castle	11,947,000
(Wilmington and County Police)	(10,530,000)
(All Other)	(1,417,000)
Kent	1,244,000
Sussex	907,000

It is not known if the above comparisons are valid since some agencies may have included State Aid funds and/or Federal program grants.

IMPLEMENTATION:

Study can determine the best fiscal system for any single agency; civilian personnel could be engaged to perform such functions (See Standard 6.1).

Costs would accrue for training and salaries of fiscal affairs personnel. However, this would be true only in the largest jurisdictions. In smaller ones, municipal and police administrators would work together on fiscal and procurement matters, thus creating cost savings to the taxpayer.

## CHAPTER 6

### SUPPORT SERVICES AND SPECIALIZED OPERATIONS

#### DELAWARE STANDARD 6.1: Civilian Personnel and the Use of Professional Expertise (P10.1-10.2, P11.1-11.3, K)

*Police executives should survey the positions in the agency to determine where civilian personnel could competently perform the task of a sworn police officer. Salary and benefit structures should be commensurate with the civilian responsibilities.*

*Police agencies should have contact with professionals outside the Criminal Justice System who are available for specific purposes and for limited amounts of time; i.e., medical specialists; business, trade, and industrial professionals; behavioral science experts; educational professionals; and members of the clergy.*

#### DELAWARE SITUATION:

The larger police agencies are in substantial compliance in the use of civilian personnel.

Some use is made of experts from "outside" professions, especially for training purposes. Ties developed in this manner should be strengthened by more frequent use and contact.

#### IMPLEMENTATION:

Administrative procedures should include an annual survey to determine the most efficient use of all employees.

A list should be compiled of all available professionals willing to give time on a fee or volunteer basis to the Criminal Justice System. Such a list should be published for the use of all criminal justice agencies.

There would be some costs involved in compiling and updating such a list.

DELAWARE STANDARD 6.2: Agency Support Services (P11.2, P12.1-12.3, K)

*Certain support services are required to maintain an efficient organization. Each agency should assess its need for legal assistance, evidence technicians, and the capacity of its property and detention system.*

1. *A legal adviser is required if the need for legal assistance goes beyond the services provided by the city or county attorneys or the State Attorney General. Any adviser to a police agency should report directly to the chief executive. He should have no other legal interest that would be considered conflict of interest.*
2. *One of the basic functions of the evidence technicians is to identify, collect, and preserve physical evidence. Evidence must be analyzed in accurate and timely fashion for presentation in criminal proceedings. Personnel must be available to gather evidence 24 hours a day. The State should immediately institute training for evidence technicians in order to attain minimum statewide levels of proficiency.*
3. *The property system used by all police agencies should have uniform written procedures which provide for secure and efficient storage, classification, retrieval, and disposition of evidence and valuable items in police custody. Trained civilian personnel should be employed. There should be officers to handle the separate processes of booking, releasing, and disposing of property.*
4. *All detention systems should insure that the management of temporary detention facilities is handled professionally. Municipalities should use their detention facilities only to detain suspects for short-term processing immediately following arrest.*

DELAWARE SITUATION:

1. In theory, the Office of the Attorney General is available to advise any sworn officer in the discharge of his duties. In practice, there is great competition for the services of this Office (which in no case amounts to full-time legal advisory services). The governments of New Castle County and the City of Wilmington maintain full-time legal staffs available to their respective police agencies. Most municipalities within the State use part-time city solicitors who advise all city or town departments including the police departments.

In addition, the Office of the Attorney General publishes a periodic newsletter which is intended as an in-service educational tool for police officers.

2. The standard curriculum at the police academies within the State includes handling of evidence. Larger agencies send personnel for more intensive training available through the FBI, Northwestern University, and other specialized schools. They can share their advanced skills on their return.

Certain testing can be performed at Delaware's Forensic Sciences Laboratory in Wilmington. Other local laboratories are also used. Blood alcohol tests and urinalyses in connection with motor vehicle arrests are performed by the Department of Agriculture Laboratory. More complex needs can be met at the FBI Laboratories in the Washington area.

The State Police and some local police departments have criminalistics vans which are used mainly for the collection of evidence. The Wilmington Police Department uses its van on a 24-hour, seven-day basis. A training program is part of the purchase price of the van, though little supplementary training is offered to personnel manning the van. There are no civilians employed.

The vans are not capable of sophisticated testing. Evidence from the van's testing is admissible only to the extent of the van's capabilities. Such evidence is usually delivered to a laboratory listed above.

3. Property classification, storage, retrieval, and disposition is taught also under the same conditions specified for #2. Property handling and disposal is covered by statute and by local ordinance.

4. Because of the unified statewide detention system, local detention facilities (usually referred to as "lock-ups") are used only for initial processing of suspects and are not equipped or designed to handle prisoners for more than a few hours. The State Police and 12 local departments (including New Castle County and Wilmington) maintain cellblocks for temporary detention.

IMPLEMENTATION:

1. Funding would be required, either for the Attorney General's Office on the State level or from local governing bodies to provide for legal advisers assigned exclusively to the police. If such funding were available, groups of small municipalities could contract with a legal consultant to share services. Because of the many variables involved it is impossible to estimate costs at this time.

2. A study should be made to determine whether there is need for more intensive training of evidence technicians.

3. Statutes and local ordinances presently govern the handling of property. Analysis should determine whether a strengthening of these ordinances is appropriate.

4. Delaware appears to be in full compliance with this element of the standard.

DELAWARE STANDARD 6.3: State Support Services (P9.4, P11.3, P12.2, K)

*If research supports the need, the State should provide a full-service laboratory system for all police evidence needs. By 1978, an information system to provide relevant data on all types of cases should be developed.*

*Management improvement services should likewise be available through the State upon request.*

DELAWARE SITUATION:

At its July meeting, the Governor's Crime Reduction Task Force approved a report calling for a full-service forensic laboratory.

Training in handling evidence is available from the FBI and several out-of-state institutions. Institutes and seminars are presented within the State by experts from these same institutions.

IMPLEMENTATIONS:

If study indicates that a full-service forensic laboratory is needed, the State would be the best level of government to provide it. Objective analysis should be based on the present and projected needs of the State. A laboratory can be justified only if it can be shown that the facility would be busy for the normal working day. On deciding to proceed with a forensic laboratory, enabling legislation and funding would be required.

Management consultation services could be provided by the State Minimum Standards Commission when operational (See Standard 7.1). Cost analysis would determine the funding needs.

DELAWARE STANDARD 6.4: Internal Specialized Assignments (P9.1-9.3)

*General patrol officers should be used for police activities whenever possible. Specialized units should exist only to improve the delivery of police services.*

*Personnel should be selected for specialized units based upon written criteria and standard selection methods. Annual review would determine the need for and the modifications necessary for the use of specialized units for the following year.*

DELAWARE SITUATION:

Specialized units are used only by the State Police and the largest municipal forces.

IMPLEMENTATION:

Administrative action is necessary to implement this standard.

DELAWARE STANDARD 6.5: State Committee for Technical Assistance Specialists (P11.3)

*A State committee should be formed to assist local agencies in acquiring the services of technical assistance specialists.*

DELAWARE SITUATION:

See Standard 5.1.

IMPLEMENTATION:

Enabling legislation or an interagency agreement is needed to create the committee. Alternatively, the committee could be a subunit of the State Planning Agency or the Minimum Standards Commission.

DELAWARE STANDARD 6.6: Internal Specialized Operations (P9.8-9.11)

*Specialized operations which should exist in each department are juvenile; criminal investigation; vice, narcotic and drug; and intelligence operations.*

DELAWARE SITUATION:

Larger police departments are in substantial compliance with the above.

<u>Specialized Service Units in Operation in Agencies with Two (2) or More Officers</u>	<u>State</u>	<u>Local</u>
Detective	X	8
Juvenile	X	5
K-9	X	2
Specialized Crime	X	4
Training	X	2
Planning	X	3
Community Relations/Crime Prevention	X	3

## IMPLEMENTATION:

Implementation can be effected through administrative action in, and among, the affected agencies.

Intelligence operations require equipment such as computer-based storage and retrieval elements and assurance of the system's safety and confidentiality. This will require legislation and funding with special consideration of security and privacy factors.

Costs may be included in the eventual implementation of the Comprehensive Data Systems Plan for the State of Delaware.

## DELAWARE STANDARD 6.7: Traffic Operations (P9.6)

*Every police agency and local government having the responsibility for traffic safety should perform the basic functions of traffic law enforcement, accident management, and direction and control of traffic. Agencies should use the Federal Highway Safety Division manual as a guideline for uniform traffic control.*

## DELAWARE SITUATION:

The larger police departments are in substantial compliance with the standard.

## IMPLEMENTATION:

Educational information should be released to the public on a periodic basis.

Total implementation of the standard would require administrative action and funding by the affected jurisdiction.

## DELAWARE STANDARD 6.8: Special Crime Tactical Forces (P9.8)

*Police departments of 75 personnel or more should have available a highly mobile tactical force for the rapid deployment of officers against special crime problems.*

DELAWARE SITUATION:

Such units are being employed by the Delaware State Police and departments in the City of Wilmington, Smyrna, Newark, and Milford.

IMPLEMENTATION:

Implementation of this standard requires administrative action. Legislation would be required to grant legal authority to indemnify and protect assigned officers when interagency forces are needed in other than emergency situations.

## CHAPTER 7

### RECRUITMENT AND TRAINING

DELAWARE STANDARD 7.1: State Mandated Minimum Standards for Police  
(P13.4, K)

*Legislation should be enacted to establish a Commission on Minimum Police Standards for the State of Delaware. The Commission should develop and enforce uniform standards for the selection, training, and salaries of police officers. By 1978, the Commission should certify officers who complete basic training and meet other entrance requirements.*

DELAWARE SITUATION:

Title 11, Chapter 84, Sections 8404 and 8405, Delaware Annotated Code, sets forth the powers and duties of the Council on Police Training. These are currently limited to setting and enforcement of minimum standards for certified police officers. The official salary scale for State Police is set by Section 8403 as amended.

IMPLEMENTATION:

Title 11, Chapter 85, Delaware Annotated Code, should be amended to provide that the Council on Police Training be given the power to set standards covering qualifications other than educational.

Funds (estimated at \$60,000 to \$100,000) should be appropriated to employ a full-time director and small staff to administer the responsibilities allocated to the Commission. The State should reimburse the local agency for 100% of training costs. Further study is required to determine the possible total cost to the State.

DELAWARE STANDARD 7.2: Police Salaries and Classification Plan  
(P14.1-14.2, K)

*The State of Delaware and its units of local government should establish salaries that attract and retain qualified sworn personnel and a policy of annual review to insure adjustments which reflect local community conditions. The State should reimburse the local agencies for at least 25% of the personnel budget.*

A broad police classification plan, based on performance, should be established by each unit of local government.

DELAWARE SITUATION:

With each jurisdiction negotiating its own salary scale and fringe benefits package, a competitive situation tends to develop. Entry-level salaries for local police range at present from a low of \$6,000 (Delmar) to a high of \$10,668 (Newark). Maximum salaries at the patrolman level range from \$8,200 (Clayton) to \$15,923 (New Castle County).

The State of Delaware has a total of 1,096 full-time officers — 444 Delaware State policemen and 652 local officers.

IMPLEMENTATION:

Legislation is necessary to provide for annual review of salary levels. Budget allocations from the State are necessary to provide the 25% reimbursement of salaries to local governments.

The larger police agencies in Delaware are in full compliance with the above standard. Other agencies can implement the standard by local legislation and budget allocation.

DELAWARE STANDARD 7.3: Police Recruiting Policies (P13.1-13.3, 13.5-13.6, K)

*Each police agency should administer its own recruiting program. Recruitment should be directed towards the best qualified, regardless of education and ethnic background. No artificial or arbitrary barriers, either cultural or institutional, should discourage minorities or women from seeking police employment. All recruitment policies should stress the opportunity for valuable social service and a progressive career.*

DELAWARE SITUATION:

Delaware police agencies are in substantial compliance with this standard.

Delaware State Police must reside within the State and New Castle County Police within the County. The City of Wilmington requires its policemen to become city residents within six (6) months of employment.

Cadet programs exist in Wilmington, New Castle County, and Newark.

IMPLEMENTATION:

More police agencies should investigate the possibility of instituting cadet programs for interested youth within its jurisdiction.

DELAWARE STANDARD 7.4: Selection of Candidates for Police Service (P13.4-13.5, P20.1, K)

*Each police agency should establish a formal process for the selection of qualified officer candidates. A variety of aptitude, physical, and psychological tests and a background investigation should be incorporated into the selection process.*

DELAWARE SITUATION:

<u>Recruitment Criterion for Agencies with Two (2) or More Officers</u>	<u>State</u>	<u>Local</u>
High School Degree	X	23
Psychological Examination	X	6
Oral Interview	X	23
Security Check	X	23

Standardized tests are generally not used within the State. A federally-funded test validation project was approved in 1976 (76-041) with the Newark Police representing a consortium of police including University of Delaware Security.

IMPLEMENTATION:

This standard can be implemented through administrative action within the affected agencies. Some local costs are involved.

DELAWARE STANDARD 7.5: Standards for Entering Police Service  
(P13.4, P15.1-15.3, K)

*Each police agency should require that all applicants undergo thorough examinations to detect conditions that would prevent maximum performance under stress conditions. These examinations should be conducted by licensed practitioners.*

*All police agencies should have educational goals for initial employment of police officers. Two (2) years of college credit (60 hours) should be required by 1978, three (3) years by 1980, and four (4) years (120 hours) by 1982.*

DELAWARE SITUATION:

The suggested dates for the educational requirements will have to accommodate local Delaware conditions. College training is not required for entry or promotion in any department.

The City of Wilmington encourages the hiring of qualified persons who do not fulfill the standard's requirement of college training. These officers are encouraged to complete their college training after joining the department.

IMPLEMENTATION:

This standard can be accomplished administratively.

DELAWARE STANDARD 7.6: Educational Incentives for Police Officers (P15.2)

*Each police agency should have a formal program of incentives to encourage officers to seek college education. These should include financial assistance when the officer is involved in course work.*

*The law enforcement community should pursue the possibility of affiliating police training academies with institutions of higher learning.*

DELAWARE SITUATION:

Incentive payments for higher education are provided only by the City of Wilmington. Payments are made yearly as follows:

30 Credit Hours (Certificate)	\$100
60 Credit Hours (A. A. Degree)	300
120 Credit Hours (B. A. Degree)	500

IMPLEMENTATION:

State and local legislation would be required to authorize and appropriate funds to pay for salary and bonus incentives. The amount necessary would require cost analysis.

The educational approach of Delaware's institutions should be to include more police-related course work.

DELAWARE STANDARD 7.7: Police Training Academies and Criminal Justice Training Centers (P16.7)

*By 1978, the State should guarantee the availability of police training centers to every sworn police officer. Training should be conveniently available at local or regional sites; if this is not possible, the State should set up criminal justice training centers to accommodate the need.*

DELAWARE SITUATION:

The State of Delaware has five (5) police training academies. The minimum number of required training hours is 425. The City of Wilmington and New Castle County exceed this.

As of FY74 the average cost of training a police officer at the State Police Academy was \$288.23.

IMPLEMENTATION:

Training centers should be operating nine (9) months out of the year. Training should be taken to the agency if it is impractical to have the employee come to the training center.

DELAWARE STANDARD 7.8: Training Program Development (P16.1-16.4, K)

*Each academy or training center should develop programs which meet the requirements of the State Standards and the needs of the local agencies, their employees, and the community. All programs should be subject to periodic review and evaluation.*

DELAWARE SITUATION:

The Council on Police Training is in charge of establishing guidelines for the certification of instructors in police training academies. The Council has made provision for monitoring instruction in these schools.

IMPLEMENTATION:

See Standard 7.1.

DELAWARE STANDARD 7.9: Instructional Quality Control (P16.6)

*Each training academy should develop quality control methods which insure that training objectives are being met.*

DELAWARE SITUATION:

The Council on Police Training has established procedures for an annual review of curriculum used at the police training academies.

IMPLEMENTATION:

This standard can be met by emphasizing student-oriented instruction, limiting classes to 25 students, using up-to-date instructional materials, and annually reviewing all instructional materials.

DELAWARE STANDARD 7.10: In-Service Training for Police Personnel  
(P16.5, K)

*Each police agency should provide all the training needed prior to promotion or assuming new responsibilities. In-service training, including stress on interpersonal communications, should be routine to maintain effective officer performance.*

DELAWARE SITUATION:

The larger agencies, with the assistance of State and Federal funds, are generally in compliance.

In-service training sites within the State are the Delaware State Police Academy, Delaware Technical and Community College, and the University of Delaware. Programs of in-service training are carried on by the State Police and 16 local agencies. Training officers are employed by the State Police, Wilmington, and New Castle County.

A minimum of interpersonal communications training, oral or written, is required in the basic training curriculum. Individual departments sponsor seminars and workshops as needed.

IMPLEMENTATION:

In-service training in interpersonal communications should be addressed by the Commission on Police Standards.

Promotional examinations should be based on appropriate levels of in-service training.

## CHAPTER 8

### POLICE PERSONNEL PRACTICES

#### DELAWARE STANDARD 8.1: The Police Executive and Employee Relations (P18.1-18.2)

*The police executive is responsible for maintaining good employee relations within the agency. He should develop policies which facilitate that atmosphere. Among the areas under consideration should be employee benefits, political activities, and organizations.*

#### DELAWARE SITUATION:

Guidelines for political activities are set forth in Title 29, Section 5954, Delaware Annotated Code.

#### IMPLEMENTATION:

This standard can be accomplished by administrative action.

#### DELAWARE STANDARD 8.2: Personnel Record System (P17.1, P17.5)

*Each police agency should have a central personnel file, up-dated semi-annually, to provide information for assignment, promotion, and advancement. Access to the files should be limited; the employee should have his file available to him with the exception of the background investigative material.*

#### DELAWARE SITUATION:

Suggesting that an officer should not have access to the background investigative material in his personnel file may conflict with current security and privacy laws and regulations. Access to personnel files is included in the proposed Law Enforcement Bill of Rights.

IMPLEMENTATION:

All well-managed police agencies can accomplish this standard by administrative action.

DELAWARE STANDARD 8.3: Promotion and Advancement (P17.3, P17.4, K)

*The police executive should retain administrative control of the promotion and advancement system to insure that only the best qualified personnel are promoted or advanced to positions of greater responsibility. Advancement should be based on criteria specifically related to the responsibilities of the position involved.*

DELAWARE SITUATION:

<u>Promotional Criterion for Agencies with Two (2) or More Officers</u>	<u>State</u>	<u>Local</u>
Written Test	X	6
Education	X	6
Experience	X	22
Oral Test	X	6
Performance Rating (Written)	X	9
Chief's Recommendation	X	24

In general, promotion comes from within the agency. Chiefs are occasionally chosen from outside the department.

IMPLEMENTATION:

This standard can be implemented administratively by periodically screening officers to assess their potential abilities.

DELAWARE STANDARD 8.4: Misconduct and Discipline Procedures  
(P19.1-19.6, K)

*The police executive should develop written policy for the reception of misconduct complaints and the administration of internal discipline. A summary of these policies should be made public.*

*The final authority in the adjudication of complaints is the police executive or designated representatives as defined in contractual agreements with bargaining units. His decision is subject to appeal through appropriate channels. Only sustained complaints or those upheld on appeal should become part of the officer's permanent file.*

DELAWARE SITUATION:

The grievance procedure is outlined in Fraternal Order of Police contracts.

The Delaware State Police are in compliance with the standard as written. The larger police agencies comply with this standard in varying degrees.

There are statutes covering the use of the polygraph (Title 19, Section 704 (b),(d), Delaware Annotated Code) in internal investigations. Court decisions in several states in 1973 and 1974 have defined an officer's refusal to submit to a polygraph test in internal investigation as insubordination.

IMPLEMENTATION:

The relevant National Standard (P19.4) refers to use of the polygraph in internal discipline investigations. The State Police, New Castle County Police, and the municipal departments in Wilmington and Newark have the polygraph capability and trained personnel, so that it can be used under proper conditions in internal as well as external investigations.

Local administrative action can bring about full compliance with little or no cost involved.

DELAWARE STANDARD 8.5: Physical Fitness of Officers (P20.2)

*Each police agency should establish standards for the physical fitness of its officers. Periodic physical examinations should be required to insure that officers are fit for the stress of police duties. Corrective measures should be instigated under medical supervision.*

DELAWARE SITUATION:

Physical fitness standards are sporadically applied in the State. Recently the Delaware State Police conducted a successful weight reduction program.

IMPLEMENTATION:

Administrative action will implement this standard. Consideration should be given to physical fitness programs and intramural athletics.

DELAWARE STANDARD 8.6: Employee Services (P20.3-20.5, K)

*By 1978, all police agencies should have an employee services unit to assist employees with information and the procedures pertaining to benefits. Among the benefits available to the police employee should be health care programs and a statewide retirement fund.*

DELAWARE SITUATION:

Presently, only the State Police are covered by the State Retirement Fund. (See Title 11, Section 8323, Delaware Annotated Code.) Some local departments have their own retirement plans, but these are not related to the State plan.

IMPLEMENTATION:

A personnel services unit could be created by administrative action within the individual agency.

Legislation is needed to make all agencies a part of the State Retirement Fund. Provisions would have to be made for transfer of pension credits between and among agencies within and out of the State.

DELAWARE STANDARD 8.7: Employee Negotiations and Collective Bargaining (P18.2-18.3)

*Each employee organization should have written policy regulating its operation and informing its members of the scope of its activities. An employee organization should have the right to bargain collectively with its public employer.*

DELAWARE SITUATION:

Delaware is in substantial compliance with this standard.

The right of public employees to organize for the purpose of collective bargaining is found in Title 19, Section 1302, Delaware Annotated Code.

Chapters of the Fraternal Order of Police have been recognized as bargaining agents for some individual departments.

No public employer can directly or indirectly interfere with public employees' right to organize or to bargain collectively.

IMPLEMENTATION:

Title 19, Chapter 13, Delaware Annotated Code should be reviewed.

DELAWARE STANDARD 8.8: Work Stoppages (P18.4)

*Each police executive should be prepared to neutralize the effects of work stoppages within his agency. Concerted police action of this nature should be prohibited by law.*

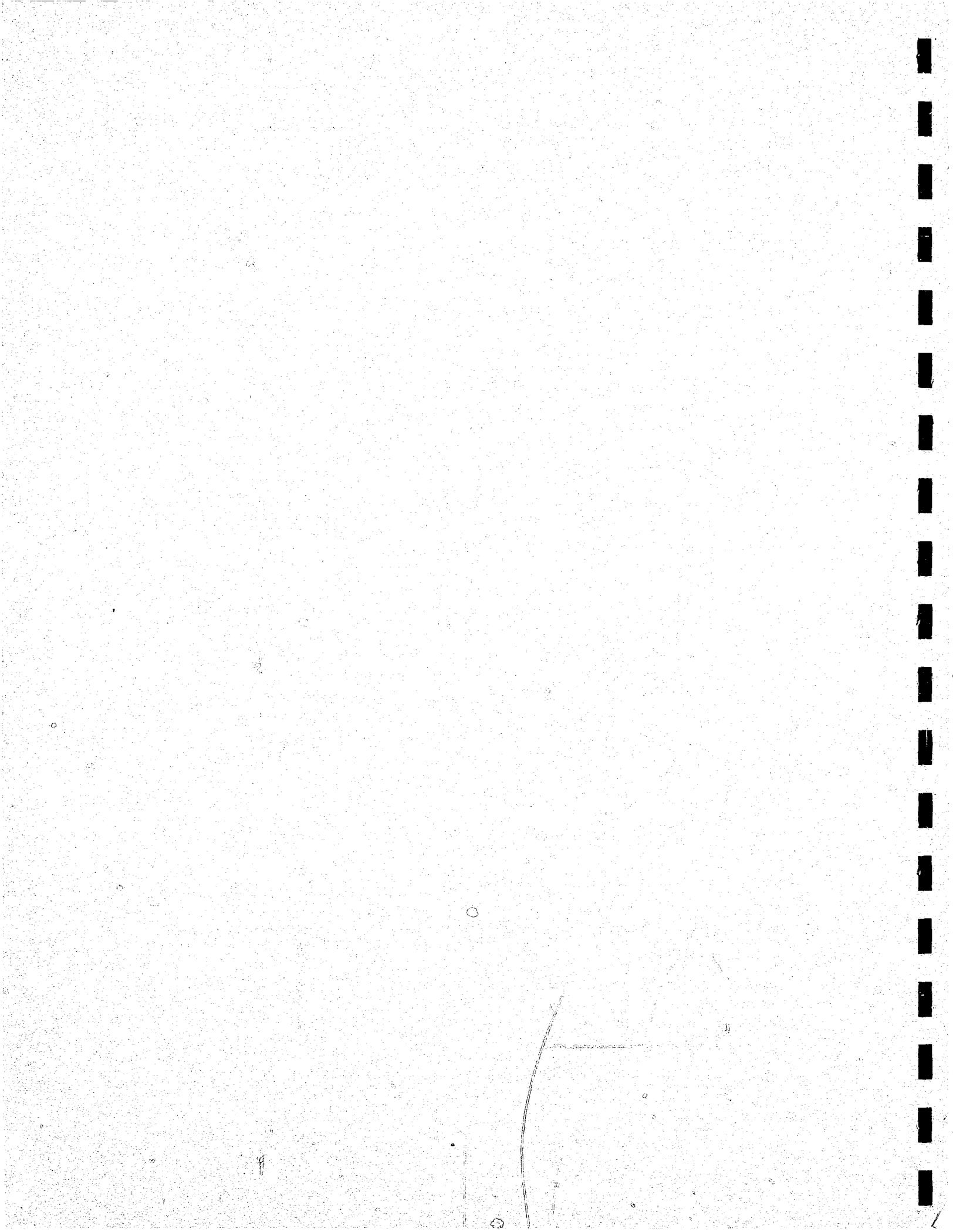
DELAWARE SITUATION:

Public Employees in the State of Delaware are prohibited from striking. (See Title 19, Section 1312, Delaware Annotated Code.)

Either party to a collective bargaining situation may submit a dispute, except for wages or salaries, to the Department of Labor for arbitration. (See Title 19, Sections 111 and 1310, Delaware Annotated Code.)

IMPLEMENTATION:

The legislation cited above should be reviewed in order to strengthen its provision. Reference should be made to police.



## COURTS

### Preface:

At the 1975 annual meeting of the Delaware Bar Association, Chief Justice Daniel Herrmann pointed out the need to insure the ability of the Delaware court system to adequately and efficiently perform its critical role in the Criminal Justice System. To accomplish this, the courts must not only be "available" but "open" to the public. With little or no public knowledge of the decision-making processes of the courts, the public has naturally been suspicious of their need for understanding and support.

The traditional processes of the courts must be modernized. Law enforcement has become more effective, yet the courts have met new, ever-increasing demands with traditional responses. Resources as well as trained personnel are required to insure that the courts are responsive to the public need for prompt and equitable justice.

Delaware has a reasonably sophisticated and advanced court system. However, tradition is strong. The courts have undergone few of the evolutionary changes experienced by other elements of the Criminal Justice System. The American Bar Association and the National Advisory Council on Criminal Justice Standards and Goals have therefore put great reliance on court organization, personnel, and institutions to bring about needed changes.

In passing, the reader should note the following differentiation between standards and recommendations:

Standards affect governmental agencies, their behavior, attitude, and procedures. They can (1) be stated in

measurable terms; (2) be objectively evaluated; and (3) serve as a basis for legislative action.

Recommendations are (1) directed at agencies, bodies, or individuals not part of government; and (2) are general in nature.

COURTS  
OBJECTIVES

DELAWARE STANDARD 7: Prosecution

Objective: To strengthen the prosecutor's staff by hiring and retaining skilled, nonpolitical prosecutors. A "career ladder" should be developed for all Deputy Attorneys General. (Chapter 10)

DELAWARE STANDARD 8: Case Litigation

Objective: To simplify and accelerate litigation by using summons in lieu of arrest. This should be accompanied by realistic penalties for nonappearance after pre-trial release. (Chapter 9)

DELAWARE STANDARD 9: Negotiated Pleas

Objective: To set workable guidelines for negotiated pleas which include time limits, guarantees of representation, and maintenance of public records. (Chapter 9)

DELAWARE STANDARD 10: Management Functions

Objective: To strengthen day-to-day court management by the delegation of this function to a court administrator. (Chapter 10)

DELAWARE STANDARD 11: Lower Court Facilities and Personnel

Objective: To enhance the image and operation of the lower courts. In Delaware, physical facilities should be improved and better selection and educational procedures instituted.

(Chapter 10)

## CHAPTER 9

### CRIMINAL CASE PROCESSING

#### DELAWARE STANDARD 9.1: Screening (C1.1-1.2, R4.4, K)

*An accused person should be screened out of the Criminal Justice System (1) if there is insufficient admissable evidence to obtain a conviction or to sustain that conviction upon appeal and (2) if the benefits derived from the prosecution would be outweighed by the costs of such an action.*

#### DELAWARE SITUATION:

In the Attorney General's Office, the intake deputy uses a checklist system to determine whether there is sufficient evidence to sustain the charge. The Wilmington City Solicitor's Office employs a similar system. Both offices "nolle pros" cases which are inappropriate for prosecution. The nolle pros, however, is not an adjudication on the merits and does not preclude a reinstatement of the same charge arising from the original transaction.

#### IMPLEMENTATION:

The State of Delaware is in compliance with this standard.

#### DELAWARE STANDARD 9.2: Criteria and Procedures for Diversion (C2.1-2.2, R4.5, P4.3-4.4, K)

*Diversion is appropriate where there is (1) likelihood that conviction could be obtained and (2) the benefit to society of channelling the offender into a noncriminal program outweighs any harm that might be done to society.*

*Diversion should take place as soon as there is adequate information to justify it. The decision to divert should be based on publicly disseminated guidelines developed by the diverting agency. If diversion includes a substantial deprivation of liberty, there should be a court-approved agreement.*

DELAWARE SITUATION:

Under the Uniform Controlled Substances Act (Title 16, Section 4765, Delaware Annotated Code), offenders can be diverted prior to trial on a first offense of possession of marijuana. The charges are dismissed at the end of one (1) year if there has been no repetition of criminal behavior.

In Family Court, the diversion device is called the voluntary adjustment program. As an alternative to prosecution, the prosecutor offers the party the opportunity to meet with a court social worker in an attempt to resolve problems which may have precipitated the unlawful action.

Municipal Court of Wilmington, through the City Solicitor's Office, employs two (2) diversionary programs. The first is a citizen's dispute settlement program for minor criminal complaints (primarily those initiated by private citizens). It operates on voluntary referrals made by the court commissioners. If not satisfied, the complainant may bring suit in Municipal Court.

The second diversionary program in Municipal Court is pre-trial intervention. Persons charged with misdemeanors can be selected for this program based on prior criminal record and the pre-trial investigation. If selected, the case is continued for one (1) year, during which time pre-trial conditions are set. If the conditions are met, the charges will be nolle prossed.

A similar program, commonly known as Attorney General's probation, provides for the discretionary granting of one-year probation on a first offense. If criminal behavior is not repeated in that period, the charge is dropped. The program is not being used often because of the lack of monitoring capability. Unlike



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pre-trial intervention, the Attorney General's program has no counselors and is not connected with an employment or training program.

These Delaware programs essentially conform with the standard.

#### IMPLEMENTATION:

The Uniform Controlled Substance Act is the only program of those noted above governed by statute. The other programs have been implemented through the administrative cooperation between the court and the prosecutorial office involved and are pursuant to the inherent policy-making powers vested in each component. At the present time, there appears to be no compelling reason to suggest additional legislation in this area. The courts are encouraged to continue formulating programs that meet the challenge of ever-increasing caseloads and provide a more socially productive response to certain types of offenses and offenders.

#### DELAWARE STANDARD 9.3: Plea Negotiation (C3.2-3.8, K)

*Plea negotiation should be allowed when conducted under strict guidelines and with written records of the proceeding. Each prosecutor's office should have a written policy on plea negotiation which is public knowledge. This should not be subject to judicial review. The prosecutor's office should not intimidate the defendant to induce a negotiated plea.*

*There should be a pre-trial time limit of two (2) weeks on plea negotiation so that the court calendar is reserved for cases that will actually come to trial. The defendant must be represented by counsel during plea negotiation; or, he must be fully advised of his rights if permitted to negotiate without counsel.*

*The court should not participate in the negotiations but should be aware of the agreement. It is the judge's responsibility to determine if the agreement is acceptable. This agreement must be presented in open court and become part of the court record. It is proper for the court to grant charge and sentence concessions to defendants who enter a plea of guilty or nolo contendere if the public interest is served thereby.*

#### DELAWARE SITUATION:

The Attorney General's Office has plea negotiation guidelines. Generally, discretion rests with the individual prosecutor to negotiate a plea on a given offense. In difficult cases, the prosecution will

usually consult with fellow prosecutors or the State Prosecutor before reaching a decision. No pleas are negotiated for robbery first degree or escape after conviction without the express approval of the Attorney General, his Chief Deputy, and the State Prosecutor. There is no time limit within which plea negotiation must be completed.

Any guilty plea induced by promises or threats which deprive the plea of the character of a voluntary act is open to collateral attack (Machibroda v. United States, 368 U.S. 487 (1962)).

In Delaware, counsel is appointed before arraignment in both misdemeanors and felonies.

The court must determine the voluntary nature of the guilty plea before accepting it (Brown v. State, Del. Supr., 250 A2d 503 (1969)). Superior Court Criminal Rule 11 requires a factual basis for the plea of guilty. All guilty plea proceedings in Superior Court are recorded by a court reporter.

Charge concessions are currently made by the Attorney General's Office with the Court reserving its decision on sentencing until the actual sentencing proceeding.

#### IMPLEMENTATION:

The courts of Delaware are substantially in compliance with the standard. A court rule should be adopted to formalize the procedure in determining the voluntary nature of pleas. The Delaware practice with regard to the Court not becoming involved in charge or sentence concessions, although not in compliance with the standard, has been addressed by the Delaware Supreme Court Advisory Committee on the ABA Standards for Criminal Justice. Consequently, implementation plans should be delayed pending further study.

DELAWARE STANDARD 9.4: Criminal Processing Time (C4.1, C4.10, K)

*The period from arrest to the beginning of a felony trial should not exceed 90 days. Pre-trial processing of a misdemeanor case should not exceed 30 days from arrest to trial.*

DELAWARE SITUATION:

Former Chief Justice Wolcott and the present Chief Justice Daniel Herrmann have issued directives to insure a speedy trial in Delaware courts. At the present time most cases are heard in approximately 120 days.

IMPLEMENTATION:

Administrative directive by the Chief Justice is necessary to initiate the process of reducing trial time to 90 days. In order to reduce the time trials are heard to 90 days, there needs to be an increase in resources, including additional judges, support personnel, physical facilities, etc.

DELAWARE STANDARD 9.5: Citation or Summons in Lieu of Arrest (C4.2)

*A citation or summons should be used in lieu of arrest after a person is apprehended or charged with a misdemeanor or minor felony. Police officers, judicial officers, and justices of the peace should be authorized to use and issue a summons in lieu of arrest.*

DELAWARE SITUATION:

Title 11, Section 1907, Delaware Annotated Code permits a police officer to issue a summons for any misdemeanor for which he could, without a warrant, have arrested the offender. The Misdemeanant Processing Project is directing efforts toward the wider use of the summons in misdemeanor cases. The statute does not cover felonies.

Superior Court Criminal Rule 4 allows the committing magistrate to issue a summons or arrest warrant at his discretion. There is no mandatory requirement for the issuance of the summons.

Superior Court Criminal Rule 9 mandates the issuance of a warrant in certain situations. If none of these situations apply, a summons should be issued. The Attorney General's Office decides whether to proceed by warrant or summons. The Court determines whether or not the Attorney General has chosen the proper device.

#### IMPLEMENTATION:

Amendment of Title 11, Section 1907, Delaware Annotated Code to include less serious felonies is necessary for the implementation of this standard. Although Rule 4 authorizes the issuance of a summons in lieu of a warrant, it expresses no preference. Rule 9 requires the issuance of a warrant in certain situations and implicitly expresses a preference for a summons when a warrant is not mandated. Both rules must be amended to express a clear preference for the summons in situations in which the use of a warrant is not mandated.

#### DELAWARE STANDARD 9.6: Misdemeanor Prosecutions (C4.3)

*There should be no preliminary hearings in misdemeanor prosecutions. All motions and the election of a nonjury trial should occur within seven (7) days after arraignment. Copies of motions should be given the prosecutor by the defense counsel.*

#### DELAWARE SITUATION:

Justice of the Peace Courts hold preliminary hearings in misdemeanor cases over which they lack trial jurisdiction, but do not hold them in cases where they have concurrent jurisdiction with other courts. In no other Delaware courts are preliminary hearings held in misdemeanor cases.

Under Superior Court Criminal Rule 12 all motions raising defenses or objections must be made not later than five (5) days after arraignment, but the Court may permit a motion to be raised within a reasonable time thereafter.

The election of a nonjury trial can be made at any time prior to trial. In the Court of Common Pleas for New Castle County, the election of a nonjury trial is made at the time of arraignment by deciding not to seek transfer to Superior Court.

See Standard 9.11 concerning the 15-day limit for filing motions in the context of an omnibus hearing.

#### IMPLEMENTATION:

Legislation is necessary to eliminate preliminary hearings in misdemeanor prosecutions. The seven-day time limit on motions and nonjury trial elections after arraignment can be accomplished by amendment to the court rules.

#### DELAWARE STANDARD 9.7: Limitations on Grand Jury Functions (C4.4)

*Grand jury indictment should not be required in any criminal prosecution. Any existing requirements should be removed; if this is not possible, provision should be made for the accused to waive an indictment. Prosecutors should encourage and facilitate such waivers.*

*If there is a grand jury indictment, there should be no preliminary hearing. The prosecutor should disclose to the defense all grand jury testimony relating to the charges in the indictment returned against the defendant.*

*The grand jury should remain available for investigations and charging in exceptional cases.*

#### DELAWARE SITUATION:

Superior Court Criminal Rule 7(a) requires that an offense within the exclusive jurisdiction of the Court shall be prosecuted by indictment. An accused may waive grand jury indictment in all

cases except those involving offenses punishable by death. If indictment is waived, the charge may be prosecuted by information (Superior Court Criminal Rule 7(b)).

The Delaware Supreme Court held that a grand jury indictment for a felony eliminates the need for a preliminary hearing (Joy v. Superior Court, Del. Supr., 298 A2d 315 (1972)).

Under present Delaware law, the secrecy of the grand jury extends to all matters occurring before it, including the testimony of witnesses (In re Petition of Jessup, Del. Super., 136 A2d 207 (1957)). Thus, the State is generally not required to disclose the grand jury testimony to defense counsel. However, in circumstances where the interests of justice require it, disclosure may be ordered by Superior Court (In re Steigler, Del. Supr., 250 A2d 379, reversed on other ground, 252 A2d 543 (1969)).

#### IMPLEMENTATION:

Eliminating the indictment function of the grand jury would require constitutional amendment. The other aspects of this standard can be accomplished through an amendment to the Rules of the Court.

#### DELAWARE STANDARD 9.8: Prompt Appearance Before a Judicial Officer (C4.5, C4.10, R4.10, K)

*When arrested, a defendant should be presented before a judicial officer without unreasonable delay. At this appearance the defendant should be advised of his rights orally and in writing including rights to bail and counsel as well as the date of his trial or preliminary hearing. Arrangement for representation should be made at this time. If pre-trial release is found appropriate, the defendant should be released.*

## DELAWARE SITUATION:

Title 11, Section 1909, Delaware Annotated Code provides for an initial hearing without delay, if possible within 24 hours after arrest. Superior Court Criminal Rule 5 provides for an initial appearance before a committing magistrate "without unreasonable delay". This implements the statute. Part (b) of Rule 5 requires the committing magistrate to inform the defendant of the charge, his right to counsel, circumstances under which he may secure pre-trial release, his right to a preliminary hearing, and his right to remain silent, as well as warn him that any statement made can be used against him. The defendant is not required to plead.

The right to counsel is clearly mandated by Delaware law at all stages of a criminal proceeding.

## IMPLEMENTATION:

While Delaware law is substantially in accord with the standard, a revision of Court Rule 5 should be made to cover specifically the points made in the standard. Section 1909 should be repealed with the question left to court rule.

## DELAWARE STANDARD 9.9: Pre-Trial Release (C1.1-1.2, C4.6-4.7, R4.4-4.5, K)

*The characteristics and circumstances of each defendant should be investigated to determine his suitability for pre-trial release. The defendant should be released on his own recognizance whenever practicable. Otherwise, appropriate bail conditions can be set.*

*If a defendant fails to appear for trial, the Court should issue an arrest warrant and notify the prosecutor. The law should deal severely with those who violate their pre-trial release.*

## DELAWARE SITUATION:

Delaware practice is in conformity with this standard.

IMPLEMENTATION:

No further action is needed in establishing pre-trial services.

DELAWARE STANDARD 9.10: Preliminary Hearing and Arraignment  
(C4.8, C4.10)

*The preliminary hearing, if needed, should be held within ten (10) days following arrest. Admissible and relevant evidence for the determination of probable cause should be presented. Arraignment should be eliminated as a personal presentment step in criminal prosecution.*

DELAWARE SITUATION:

Superior Court Criminal Rule 5(c) provides for the preliminary hearing to be held within ten (10) days of the defendant's original appearance before a magistrate if the defendant is in custody and within 20 days if he is not in custody.

Superior Court Criminal Rule 10(b) provides for arraignment in open court. Rule 10(b) provides for an arraignment by prior pleading, which consists of a written response to the indictment or information by the defendant and his attorney stating that (1) they have read and understood the charges, (2) they waive the arraignment, (3) the defendant pleads not guilty, and (4) they disclose the defendant's current address. As such, the arraignment is not held.

IMPLEMENTATION:

Amendment of the applicable court rules is necessary to implement this standard.

DELAWARE STANDARD 9.11: Pre-Trial Activities (C4.10, K)

- A. Disclosure of Information: Within five (5) days of arraignment the prosecution should disclose all evidence to be used against the defendant at his trial. Any further information should be disclosed as it becomes available. Such information does not include the identity of an informant or the prosecution work product.

Subject to constitutional limits, the defendant should be required to disclose any and all defenses that he intends to raise at the trial. This information does not include the defendant's statements or whether he will testify at the trial.

The Court may authorize the withholding of information if there is a substantial risk to the safety of the witness and if there is no way to eliminate that risk.

- B. Pre-Trial Motions: Motions should be filed within 15 days of arraignment. Ten (10) days after filing, presentations on these motions should be held. The court ruling should be given within 72 hours of presentation. The use of a checklist will insure that all appropriate motions have been filed and all pertinent issues are raised.
- C. Pre-Trial Conferences: If possible, the conference should take place as part of the pre-trial motion hearing. Maximum effort should be made to narrow the issues finally submitted to litigation. The case should not go to trial until there is a conference, unless the judge determines the conference is unnecessary.

DELAWARE SITUATION:

Present Delaware law, embodied in Superior Court Criminal Rule 16, does not mandate disclosure, but provides for discovery application by the defense to the Attorney General, with resort to the Court only if the application is not timely or when opposed by the Attorney General. Furthermore, present Delaware law does not mandate disclosure of witnesses that the prosecution intends to call or disclosure of all other evidence that the prosecution intends to use at trial.

Under present Delaware law, the defendant is required to disclose his planned defense to the prosecution only if that defense is insanity (Superior Court Criminal Rule 12.1).

Superior Court Criminal Rule 12(b) (4) requires that all motions raising defenses and objections be raised within five (5) days after

arraignment, but the Court is given the discretion to entertain motions presented thereafter.

Upon the motion of any party of the Court, Superior Court Criminal Rule 17.1 provides for the convening of a pre-trial conference at any time after the filing of the indictment or information. At the conclusion of the conference, the Court is required to prepare and file a memorandum of matters agreed upon.

IMPLEMENTATION:

This standard can be implemented by amending the applicable criminal rules of Superior Court.

DELAWARE STANDARD 9.12: Priority Case Scheduling and Granting Continuances (C4.11-4.12)

*Immediately following arraignment, the prosecutor should advise the Court Administrator's Office of those cases which require priority scheduling. Priority scheduling is needed: (1) if the defendant is in pre-trial custody; (2) if the defendant is a significant threat to others; or (3) if there is a compelling need for a speedy trial.*

*Case continuances should not be granted unless requested in writing or in open court.*

DELAWARE SITUATION:

Priority scheduling of criminal cases is governed by the Case Scheduling Office created by directive of Chief Justice Herrmann in September 1975. That office follows established guidelines.

IMPLEMENTATION:

Implementation can be accomplished by administrative action in establishing court rules to supplement present policy.

DELAWARE STANDARD 9.13: Jury Selection (C4.13-4.14)

*The questioning of prospective jurors should be conducted exclusively by the trial judge. The defense and prosecution should submit questions to the judge. Both defense and prosecution should have an equal number of challenges.*

*Criminal prosecutions for offenses that are punishable by less than life imprisonment should have juries of less than 12, but no fewer than six (6) members.*

DELAWARE SITUATION:

Delaware practice conforms to the recommendations contained in the standard. The first paragraph is complied with in full. A jury of less than 12 is permitted for any offense in Delaware if, at any time prior to verdict, all parties stipulate in writing and the Court grants approval (Superior Court Criminal Rule 23(b)). Limiting a jury to six (6) members has been held by the United States Supreme Court not to be violative of a defendant's right to a trial by jury (Williams v. Florida, 399 U.S. 66 (1970)).

IMPLEMENTATION:

Under present rules, any party can insist upon a trial by the full twelve-person jury; his request must be granted. Constitutional amendment is necessary for implementation of this standard.

DELAWARE STANDARD 9.14: Trial and flow of Criminal Cases (C14.15)

*To expedite the flow of criminal cases through the courts, daily court sessions should begin at 9:00 A.M. and continue until 5:00 P.M. with such other hours as needed for the dispensation of justice. Sessions should be considered for nights and weekends. Each trial should have the standard format: (1) opening statements; (2) presentation of relevant evidence; and (3) instruction to the jury.*

## DELAWARE SITUATION:

Superior Court Criminal and Court of Common Pleas Criminal Rules 56 state that the respective courts "shall be deemed always open for the purpose of the transaction of business." The Justice of the Peace Courts "shall be open at such times as shall be provided by the rules, provided, however, that in both Kent and Sussex Counties there shall be at least one justice available at all times, and in New Castle County there be at least two justices available at all times."

Superior Court and the Court of Common Pleas do not in reality hold sessions except in the daytime. On occasions, sessions will extend beyond 5:00 P.M. or into the weekend, especially when juries are involved.

Several Justice of the Peace Courts are open for 16 hours a day in addition to those that are open around-the-clock.

## IMPLEMENTATION

Implementation can be accomplished by administrative action and constitutional amendment.

## DELAWARE STANDARD 9.15: Presentence Reports (R5.15-5.16)

*Sentencing courts should develop guidelines to cover the preparation, use, and disclosure of presentence reports.*

- 1. With the informed consent of the defendant, the presentence report should be prepared before adjudication to avoid prejudice.*
- 2. Various forms of the presentence report, ranging from the short form to a full report, should be developed. All information must be factual and verified.*
- 3. The presentence report should be disclosed to the prosecution, defense, and the supervising agency. The defendant should have the right to challenge the sentence based on the presentence report.*

## DELAWARE SITUATION:

Pursuant to Title 11, Section 4331(a), Delaware Annotated Code a presentence investigation may be requested by the court after conviction and before sentencing. There is no provision for multiple forms of the presentence report, although practical considerations may dictate the extent of the report in various cases.

The presentence report is disclosed to the attorneys involved, but only within controlled guidelines. For example, no photocopying of the report is permitted and the recommendation of the presentence investigator is not disclosed to the attorney. The defendant may present evidence to refute information contained in the report and offer affirmative evidence on his own behalf. In Delaware, the presentence report is not binding upon the sentencing judge; therefore, the report affords no independent basis for review of sentence.

## IMPLEMENTATION:

Legislative action is needed to implement the standard. Furthermore, a rule of court should be promulgated to govern the disclosure of the presentence report to the defense attorney.

## DELAWARE STANDARD 9.16: Sentence Hearings (R5.17-5.19)

*The court system should adopt the practice of holding a sentencing hearing prior to the imposition of sentence. All sentences should be based on the record of the sentencing hearing with the record then becoming part of the trial record.*

*The exclusionary rules of criminal evidence do not apply in the hearing situation. Both the defense and the prosecution should be represented at the hearing.*

## DELAWARE SITUATION:

Delaware is in substantial conformity with this standard, although the procedures employed by Delaware courts are less formalized. The defendant and his attorney are given the opportunity to speak on behalf of the defendant (Superior Court Criminal Rule 32(a)) and to point out any inaccuracies in the presentence report. Generally, both defense and prosecution are present at the sentencing hearing.

## IMPLEMENTATION:

Since sentencing hearings are already being held, no substantial statutory revision is necessary. Administrative action can be utilized to enable the hearing to conform more fully to the standard.

## DELAWARE STANDARD 9.17: Sentencing Practices (C5.1, R5.1-4, R5.6-5.12, K)

*To provide judges with the background information needed to fulfill their sentencing responsibilities, the court system should adopt the practice of holding sentencing institutes. All new judges should be required to attend. Judges should also participate in a program to acquaint them with the correctional facilities and programs to which they can sentence offenders so they have a complete knowledge of the consequences of sentencing decisions.*

*The criteria for sentencing the nondangerous offender should be based on using the least drastic sentence consistent with the public safety. The legislature should set only maximum sentences and authorize judges to set the offender's maximum sentence at less than the statutory requirement. The court should be allowed to set either consecutive or concurrent sentences depending on the circumstances of the case.*

*In consideration of the actual sentence, the judge should give credit for time served while awaiting trial; and, for a defendant incarcerated on another charge, credit should be given for "good time". The plea of guilty should not be considered as a mitigating factor in sentencing the defendant.*

*The sentencing court should retain jurisdiction over the offender. When new information becomes available, the offender or the correctional institution should be allowed to petition, in open court, to reduce sentence or modify its term.*

## DELAWARE SITUATION:

At present, there is no sentencing institute held specifically for Delaware judges. Superior Court judges do, however, attend the College of Trial Judges in Reno, Nevada for training in sentencing and other related matters.

The Delaware legislature provides for minimum sentences in certain classes of felonies (e.g., Class A, life imprisonment; Class B, three (3) years imprisonment, and Class C, two (2) years imprisonment) (Title 11, Section 4205(b), Delaware Annotated Code). In all other classes of criminal offenses, only a maximum sentence is set.

The Court is generally given discretion in its selection of concurrent or consecutive sentences; however, in certain offenses, consecutive sentencing is mandated. These are escape (Title 11, Section 1253, Delaware Annotated Code), assault in a detention facility (Title 11, Section 1254, Delaware Annotated Code), and a second conviction for robbery (Title 11, Section 832, Delaware Annotated Code) or when a person is convicted and sentenced for two or more offenses arising from the same criminal conduct (Title 11, Section 3901(d), Delaware Annotated Code).

Credit is allowed against a sentence imposed upon a defendant for any period of incarceration in a State institution before sentence (Title 11, Section 3901(b), Delaware Annotated Code). Whether a defendant pleads guilty or is adjudged guilty after trial has no effect upon the Court's imposition of sentence.

Superior Court, under Criminal Rule 35(b), has the discretion to reduce or modify a sentence within four (4) months after the imposition of sentence or dismissal of appeal. Title 11, Section

4204 (q), Delaware Annotated Code provides: "Where modification of judgment is not provided by rule of court, the court may modify a judgment within 90 days after it is ordered."

#### IMPLEMENTATION:

Statutory change is necessary to bring current Delaware sentencing practices into full conformity with the standard. The sentencing institute can be arranged through administrative action. The estimated cost of this institute is \$10,000.

#### DELAWARE STANDARD 9.18: Probation (R5.4)

*Each sentencing court should revise its policies and practices regarding probation according to the following guidelines.*

1. *The term of probation should not exceed the maximum allowable sentence.*
2. *The judge should be allowed to impose conditions for the benefit of the offender and the public.*
3. *The offender should have a written statement of his probation conditions.*
4. *Violations of the conditions of probation should be cause for revocation.*
5. *Probation should not be revoked for the commission of a new crime until the offender is tried and convicted of the crime.*

#### DELAWARE SITUATION:

Delaware is in compliance with this standard with the following exceptions:

1. The term of probation cannot exceed the maximum term of commitment or one (1) year whichever is greater (Title 11, Section 4333, Delaware Annotated Code). Therefore, probation may last one (1) year when the maximum sentence is less.

2. Probation may be revoked for the commission of a new crime prior to conviction for that crime if the commission of the crime constitutes a violation of the conditions of probation as determined at the revocation hearing. Revocation, however, is not mandated (Title 11, Section 4334(c), Delaware Annotated Code).

IMPLEMENTATION:

Statutory change is necessary to bring Delaware into full compliance with this standard.

DELAWARE STANDARD 9.19: Fines (R5.5)

*When enacting criminal code revisions, the General Assembly should determine the categories of offenses where fines might be imposed. In each category a maximum fine should be established.*

DELAWARE SITUATION:

Delaware is in substantial compliance with the elements of this standard.

IMPLEMENTATION:

No further legislative or administrative action is necessary.

## CHAPTER 10

### JUDICIAL ORGANIZATION

#### DELAWARE STANDARD 10.1: The Judiciary (C7.1-7.5, K)

*An advisory commission serving at the Governor's pleasure should be established by Executive Order. It should implement a judicial selection process with the advice of the bench, bar, law schools, and the public. This commission should consider names submitted by the Governor and, at his request, furnish the Governor with names worthy of appointment.*

*With the exception of justices of the peace, all judicial appointments should be for a term of 12 years with a mandatory retirement age of 70. Salaries and retirement benefits of the judiciary should be comparable to those of the Federal judiciary.*

*The State of Delaware should create and maintain a comprehensive judicial education program, including orientation programs, refresher courses, a bench manual, and newsletter. Provision should be made for judges to pursue studies and research relevant to their duties.*

*A commission should be empowered to investigate charges of misconduct or disability which would affect their ability to continue on the bench. The commission should be authorized to take appropriate action regarding their conduct.*

#### DELAWARE SITUATION:

At present, judges of constitutional courts (Supreme Court, Superior Court, and Court of Chancery) are appointed through a procedure outlined in Article IV, Section 3 of the Delaware Constitution. Judges of legislative courts (all State courts) are appointed through a procedure outlined in Article IV, Section 30 of the Delaware Constitution. The appointment of judges in all Delaware courts, except Justice of the Peace Courts, is for a 12-year term. There is no mandatory retirement age.

Delaware is in substantial compliance with the guidelines relating to judicial education.

The Court on the Judiciary is empowered to investigate charges of misconduct or disability, and is authorized to dismiss the charges, censure, remove, or retire the judge involved.

#### IMPLEMENTATION:

Constitutional amendment is necessary to change the procedure of appointing judges. As soon as the selection commission concept is authorized, the commission can be staffed by Executive Order. Constitutional amendment is also necessary to mandate the retirement age for judges.

The inclusion of lay persons and members of the bar in the composition of the self-policing Court on the Judiciary requires an amendment to the Rules of the Court on the Judiciary.

#### DELAWARE STANDARD 10.2: Unified State Court System (C8.1, C9.1-9.4, K)

*The State courts should be organized into a unified judicial system financed by the State of Delaware. The system should be administered by a State Court Administrator or an Administrative Judge under the supervision of the Chief Justice of the State Supreme Court.*

*Within a unified system, all trial courts should be combined into a single trial court with both criminal and civil jurisdiction. Provisions should be made to assure that: (1) all judicial functions are performed by full-time judges; (2) records are kept of pre-trial and trial proceedings; and (3) the court has jurisdiction over pre-trial release, probation, and rehabilitative services.*

*Under the supervision of the State Supreme Court, the Court Administrator should establish and implement policies for the entire court system. These policies cover budgeting, personnel, data requirements, fiscal control, liaison, ongoing evaluation and judges' assignments. The Administrative Judge of each trial court has this responsibility in that court. Caseload management rests with all the judges of the trial court.*

*County row offices should be abolished and transferred, where necessary, to a court clerk.*

#### DELAWARE SITUATION:

A new State Constitution, of which a unified judicial system was an integral part, was recently defeated in the General Assembly. Delaware has, however, established the position of Director, Admini-

strative Office of the Courts (Title 10, Section 128, Delaware Annotated Code) and has made both the Family Court and the Court of Common Pleas single, statewide courts.

In Delaware, all judges, with the exception of one (1) judge in Municipal Court, are full-time.

Pre-trial release, probation, and rehabilitative services are not within the jurisdiction of the Court once the sentence has been rendered and the period during which sentence modification is permitted has passed.

#### IMPLEMENTATION:

Legislation is required to unify the State Courts and change the row offices. Funding is needed to provide sufficient resources to adequately staff the State Court Administrator's Office and provide for caseflow.

#### DELAWARE STANDARD 10.3: Criminal Justice Coordinating Councils (C9.5-9.6)

*Criminal justice coordinating councils should have the support of all appointed to the Council on the Administration of Justice. This court-related council should provide a forum for communication among all segments of the court staff and the concerned public.*

#### DELAWARE SITUATION:

Coordinating councils already exist in New Castle County and the City of Wilmington.

The Council on the Administration of Justice (Title 10, Sections 2001-2008, Delaware Annotated Code) includes judicial, legislative, and nonlawyer members.

IMPLEMENTATION:

This standard has been fully implemented.

DELAWARE STANDARD 10.4: Physical Facilities (C10.1)

*The court system should have adequate physical facilities for all phases of the court processing of criminal defendants.*

DELAWARE SITUATION:

Generally, the physical facilities of the Delaware Courts are inadequate and an upgrading of the facilities of the Justice of the Peace system is especially necessary.

IMPLEMENTATION:

In order to fully implement this standard, an analysis of present facilities in all Delaware Courts is necessary. Legislative appropriations will be needed to provide new facilities or to renovate existing ones.

DELAWARE STANDARD 10.5: Court Personnel and Information Services (C10.2-10.5, K)

*The court personnel should be representative of the community served by the court system. All court personnel should participate in the planning activities in order to coordinate activities among the affected agencies and as a means of disseminating information.*

*Information services should be provided to the public and those who come in contact with the courts. The court, news media, and the bar should have the joint responsibility of informing and educating the public.*

DELAWARE SITUATION:

Delaware is in substantial compliance with the standard.

### IMPLEMENTATION:

This standard is implemented through administrative action. Although Delaware has taken steps to comply with this standard, constant attention will be required to insure the continuing responsiveness of the courts to the community.

### DELAWARE STANDARD 10.6: Witnesses (C10.6-10.7)

*To minimize the burden of testifying, prosecution and defense counsel should call only those witnesses necessary to their case. Telephone alert should be used if possible. A special effort should be made to relieve police officers of unnecessary court appearances.*

*The police should be compensated at the same rate as their other official duties. Citizens should be compensated at twice the Federal minimum wage for their time and at the Federal mileage rate for travel.*

### DELAWARE SITUATION:

Witnesses are currently subpoenaed to appear in court at 9:00 A.M. on the date of trial. They are compensated in the amount of \$2.00 per day plus travel expenses (Title 10, Section 8903(a), Delaware Annotated Code). When appearing as a witness, a police officer is compensated at the same rate as other witnesses.

### IMPLEMENTATION:

Guidelines for the calling of witnesses can be established by administrative action among the affected agencies. Legislative action is needed to alter the witness fees.

### DELAWARE STANDARD 10.7: Automated Data Systems (S5.1-5.6, C11.1-11.2)

*The courts should have a fully automated data processing system to serve their operational and management needs.*

### DELAWARE SITUATION:

The data system requirements are addressed in the Comprehensive Data System Plan. The Courts are presently compiling information in manual files which will be readily convertible to an automated system. There is an automated trial calendar reporting system in operation.

Two Courts Analysts began work on the conceptual design for the Courts module of CLUES in August 1976.

### IMPLEMENTATION:

The implementation of this standard is outlined in the Comprehensive Data System Plan (See Criminal Justice Systems Standard 18.4).

### DELAWARE STANDARD 10.8: The Prosecutor's Office (C12.1-12.9, K)

*The Attorney General should be selected on the basis of demonstrated ability and personal integrity. He should serve a minimum term of four (4) years and receive an annual salary equivalent to the presiding judge of the trial court of general jurisdiction. The Attorney General should develop a comprehensive set of guidelines for screening, diversion, plea negotiation, and internal office practices. These should be reviewed every six (6) months.*

*The organization of the Attorney General's Office should be statewide and as such should provide its deputies with (1) assistance in developing innovative prosecution programs; (2) support services (e.g., investigators, accountants, data gathering, appellate research, and office management); and (3) educational training programs. The trial division should have at least two (2) attorneys for each trial judge conducting felony trials. Other office functions should be handled by an adequate staff of deputies.*

*Deputies should be hired for their demonstrated legal abilities. Full-time service should be required. Salaries should be equivalent to comparable positions in private law firms. The caseload of each deputy should be manageable enough to allow adequate preparation time. All new staff members should attend training sessions for prosecutors.*

### DELAWARE SITUATION:

The Attorney General is elected to a term of four (4) years and receives a salary of \$30,000 (Title 29, Section 2506(a),

Delaware Annotated Code). The President Judge of Superior Court receives a salary of \$39,500 (Title 10, Section 503(a), Delaware Annotated Code).

Although there is no statutory requirement that a Deputy Attorney General, other than the Chief Deputy, be employed on a full-time basis (Title 29, Section 2505, Delaware Annotated Code), it is the present policy of the Attorney General's Office to hire only full-time prosecutors.

Otherwise, Delaware is in compliance with the standard.

#### IMPLEMENTATION:

Legislative action is required to raise the Attorney General's salary to the level of the President Judge of the Superior Court. A statutory amendment is needed to formalize the Attorney General's policy of hiring only full-time prosecutors.

Administrative action on the part of the Attorney General will provide further implementation if funds are appropriated by the General Assembly.

#### DELAWARE STANDARD 10.9: Prosecutor Staff and Facilities (C12.1-12.6, K)

*The Attorney General's Office should have a staff and facilities which compare to a law firm of similar size. The staff should have immediate access to a library to fulfill research requirements. Each staff member should be provided with personal copies of the code for daily use.*

*In metropolitan areas the Prosecutor's Office should have an office manager to select and supervise non-legal personnel, procure supplies, and plan for program and budget needs. Para-professionals should be employed for all law-related tasks not requiring prosecutorial training.*

*The office manager should set up a filing system which allows case files to be available in 30 minutes. An adequate statistical system is needed to provide the Attorney General with information to evaluate and monitor the performance of his staff.*

DELAWARE SITUATION:

The Attorney General's Office is in substantial compliance with the following exceptions:

1. A complete library is not available in the office; however, the New Castle County Law Library is within two (2) blocks.
2. The position of office manager is currently federally funded. It is unclear whether the position will be retained upon expiration of Federal funds.
3. The statistical system is currently under development.

IMPLEMENTATION:

Implementation can be effected through administrative action and with additional funding by the General Assembly.

DELAWARE STANDARD 10.10: The Prosecutor's Investigative Role (C12.8)

*The prosecutor should have an investigative arm to assist him in case preparation, to supplement the police investigations when police lack adequate resources, and, in limited situations, to undertake an initial investigation of possible law violations. In certain circumstances, the prosecutor should be allowed to issue subpoenas to potential witnesses.*

*The Prosecutor's Office should review all applications for search and arrest warrants before the police submit them to a judge for approval. No warrant should be submitted without approval from the Prosecutor's Office.*

DELAWARE SITUATION:

Under Title 29, Section 2513, Delaware Annotated Code, the Attorney General may appoint five (5) state detectives to assist him in conducting investigations. Under Title 29, Section 2508, Delaware Annotated Code, the Attorney General has full subpoena power to compel the attendance of persons, witnesses, and evidence at a designated location.

The Prosecutor's Office reviews applications for search and arrest warrants in those cases in which it participated in the investigation. This policy is viewed as a concession to expediency.

IMPLEMENTATION:

If more than the presently authorized five (5) state detectives are required, an amendment of Title 29, Section 2513, Delaware Annotated Code is necessary. Administrative action by the Attorney General's Office can implement full review of search and arrest warrant applications.

DELAWARE STANDARD 10.11: The Attorney General's Relationship with Criminal Justice Agencies and the Public (C12.9)

*The Attorney General should maintain a close professional relationship with the courts, police, and corrections systems. He should encourage an interchange of views and information among the agencies of the Criminal Justice System.*

*The Attorney General should regularly inform the public of the activities of his office and of other law enforcement agencies. He should communicate to the public his views on important issues and problems confronting the Criminal Justice System.*

DELAWARE SITUATION:

The Attorney General's Office is in substantial compliance with this standard.

IMPLEMENTATION:

This standard has been implemented, but requires the continuing efforts of the Attorney General's Office to maintain and improve the channels of communication between that office, the general public, and other components of the Criminal Justice System.

DELAWARE STANDARD 10.12: Public Representation in Criminal Cases  
(C13.1-13.6)

*Defense services for the indigent should be supplied through a combination of the Public Defender and a coordinated system of assigned counsel drawn from the private bar. Participation of the private sector should be encouraged.*

*Counsel should be available at every step of the criminal proceeding at the defendant's request. If counsel is not requested, the judicial officer should refer the case to the Public Defender or appoint counsel. If the defendant is deemed ineligible for public defense, the Public Defender should assist him in obtaining private counsel and act for him until that counsel assumes representation.*

*Counsel should be available to inmates desiring to appeal their convictions. Indigent detentioners, parolees, and probationers should have access to counsel for hearings relating to their status.*

*Funds for the public defender and such other representations where conflict of interest may arise should be provided by the State. The defendant should pay a portion of the costs if he is able.*

DELAWARE SITUATION:

Title 29, Section 4605, Delaware Annotated Code provides for the appointment and compensation of additional counsel, at county expense, for indigent defendants. The provision was designed to cover multiple defendant cases and other situations in which conflict of interest considerations might require separate counsel to be brought into the case to supplement the services of the Public Defender (Lindh v. O'Hara, Del. Supr., 325 A2d 84 (1974)). Title 29, Section 4604, Delaware Annotated Code provides for representation of indigent defendants "at every stage of the proceedings following arrest", including the prosecution of any appeals after conviction deemed to be in the interest of justice. Where the right to counsel is afforded a detentioner, parolee, or probationer, the Public Defender provides him with defense services, upon request if he is indigent.

The Public Defender's Office is funded by the State (Title 29, Chapter 46, Delaware Annotated Code). Delaware employs an "all or

nothing" system with respect to representation by the Public Defender. If the defendant is eligible, he pays nothing.

IMPLEMENTATION:

Delaware is in partial compliance. An administrative agreement is necessary between the Public Defender and the Commissioner of Correction to make counsel available in all detention, probation, and parole hearings. Statutory amendment is needed to allow the Public Defender to be compensated by his client to the extent practicable.

DELAWARE STANDARD 10.13: The Public Defender's Office (C13.5-13.16, K)

*The Public Defender should be selected by a commission (such as the previously mentioned judicial commission) and appointed by the Governor to serve a four-year term. He should be compensated at the same salary as the President Judge of the Superior Court. The Public Defender should seek to maintain his office and perform its duties free from any political pressures. His relationship with the remainder of the Criminal Justice System should be professional and cooperative.*

*The Public Defender should select his staff on the basis of merit and compensate them in a manner comparable to attorneys in local law firms. The caseload per attorney per year should be:*

<i>Felonies</i>	<i>Not more than 150</i>
<i>Misdemeanors</i>	<i>Not more than 400</i>
<i>Juvenile Court</i>	<i>Not more than 200</i>
<i>Mental Health Act</i>	<i>Not more than 200</i>
<i>Appeals</i>	<i>Not more than 25</i>

*The training of public defenders should be equal to that received by the prosecution and judges. There should be an intensive entry-level course in basic defense skills. In-service education should continue through their term of office.*

DELAWARE SITUATION:

The Public Defender is appointed by the Governor to serve a six-year term (Title 29, Sections 4601-4603, Delaware Annotated Code). He receives an annual salary of \$19,450 for his part-time

duties. This salary is considerable less than that of the President Judge.

Figures on present yearly case load of each attorney are not available, but the guidelines of maximum caseloads appear to be reasonable.

There is no formal orientation program currently conducted for new defenders.

#### IMPLEMENTATION:

Title 29, Chapter 46, Delaware Annotated Code needs to be amended to (1) provide for the Public Defender and his assistants to be full-time; (2) authorize the Public Defender's salary to be equal to the President Judge of the Superior Court; (3) allow reappointment of the Public Defender; and (4) provide for the discipline and removal of the Public Defender.

Hiring practices are now in the hands of the Public Defender. He can implement those portions of the standard.

Appropriations from the General Assembly are necessary to provide funds for education programs.

#### DELAWARE STANDARD 10.14: Support Personnel and Facilities (C13.11)

*The Public Defender's Office should have adequate support services (secretarial, investigative, and social workers) and facilities. Its budget should be substantially the same as the other areas of the Criminal Justice System with which it deals. There should be access to a fully stocked library.*

#### DELAWARE SITUATION:

The Public Defender's staff includes secretarial and investigative personnel. Whether the services and facilities are "adequate" is a matter of judgment; certainly, they could be improved.

The Office's expenditures for FY76 were in excess of \$582,000. By comparison, the Attorney General's expenditures, including civil division, were in excess of \$1.4 million.

Like the Attorney General's Office, the Public Defender's Office is located within two (2) blocks of the New Castle County Law Library.

IMPLEMENTATION:

Delaware is in partial compliance with this standard. More funding is needed to complete implementation.

DELAWARE STANDARD 10.15: Community Relations (C13.13)

*The Public Defender must be sensitive to his role in the community. He must explain such practices as plea negotiating to the public. Defenders' offices should be located in easily accessible locations. The Public Defender should be available to community groups to educate them as to their rights and responsibilities in the Criminal Justice System.*

DELAWARE SITUATION:

The Public Defender's Office is in substantial compliance with this standard.

IMPLEMENTATION:

No further action is necessary to implement this standard.

## CHAPTER 11

### THE JUVENILE AND CRIMINAL JUSTICE

#### DELAWARE STANDARD 11.1: Court Jurisdiction Over Juveniles (C14.1)

*Family Court should be a division of a trial court of general jurisdiction and have jurisdiction over all legal matters related to family life. This court should have the resources to enable it to effectively treat the family problems that are often the root of the case in question.*

*Family Court should be authorized to order the institutionalization of a juvenile adjudged delinquent (i.e., having committed an act that if committed by an adult, would be a criminal offense) as well as jurisdiction over dependent and neglected children.*

*All personnel involved in the processing of cases through the Family Court should have special training. Law schools should recognize the need for such training.*

#### DELAWARE SITUATION:

Family Court is a court of record, separate from the other State forums. It has jurisdiction over all legal matters related to family life with the exception of adoption and the termination of parental rights; jurisdiction for these rests with Superior Court (Title 13, Sections 902 and 1102, Delaware Annotated Code).

Following the adjudication of a minor as delinquent, Family Court is authorized to order his institutionalization as well as a number of alternative dispositions (Title 10, Section 937(b), Delaware Annotated Code). Family Court presently has jurisdiction over dependent, neglected, and delinquent children (Title 10, Section 921(1), Delaware Annotated Code).

#### IMPLEMENTATION:

Amendment to the Family Court Act (Title 10, Chapter 9, Delaware Annotated Code) is needed to make Family Court a division

of a trial court of general jurisdiction; e.g., Superior. Legislative action is also necessary to transfer the jurisdiction over adoption and termination of parental rights from Superior Court to Family Court. The remainder of the standard can be implemented administratively. Personnel costs require further study.

DELAWARE STANDARD 11.2: Intake, Detention, and Shelter Care for Delinquency Cases (C14.2, R8.2)

*The Family Court Intake Department should make a recommendation on the detention of a child brought directly to Court. If the child has been placed in a detention center, a Family Court counselor can obtain release with the telephone consent of a judge. If the child is not released, he will appear for review on the next court day.*

*The Attorney General in consultation with the Family Court Intake Department should make the final decision on whether to proceed with the case. However, if he substantially disagrees with the actions of the Intake Department, he may decide to proceed on his own.*

*A judicial determination concerning detention should be made within 24 hours, except on weekends. Detention remains within the sole discretion of the judge. However, standards for detention should be spelled out.*

DELAWARE SITUATION:

The Family Court Intake Department does make a recommendation on the detention of a child brought directly before the court, but the detention decision is entirely that of the judge and is generally made within 24 hours, except on weekends.

If the child has been placed in a detention center by a magistrate to await court review, the consent of a Family Court judge is unnecessary to secure the release of the child through a Family Court counselor. If, however, the placement has been ordered by a Family Court judge, the consent of a Family Court judge is required for the release. If the child is not released, a hearing is held on the next scheduled court day. No standards governing detention presently exist.

The Attorney General's Office makes the final decision on whether to proceed with a given case.

IMPLEMENTATION:

The State of Delaware is in substantial compliance with this standard except for development of specific standards governing the detention of juveniles. This could be implemented by judicial agreement and a directive on detention standards issued by the Chief Judge of Family Court.

DELAWARE STANDARD 11.3: Delinquency Cases Processed as Adult Criminal Prosecutions (C14.3)

*After a full and fair hearing, Family Court should have the authority to order the processing of certain delinquency cases as though the defendant were above the maximum age for Family Court adjudication. The juvenile is then subject to being charged, tried, and, if convicted, sentenced as an adult.*

*More specific criteria should be developed, either by statute or Court rule, to determine when a juvenile should be processed as a criminal defendant. The juvenile should have the right to challenge a conviction based on such an order at the conviction review. Once the conviction is final, this order should not be subject to further litigation.*

DELAWARE SITUATION:

Determination of amenability is provided for with Family Court holding a preliminary hearing if (1) the minor is charged with first degree murder, rape, or kidnapping; or (2) the minor is at least 16 years of age and not amenable to the rehabilitative processes available to the court (Title 10, Section 938(a) (b), Delaware Annotated Code).

An amenability hearing is conducted, upon the motion of the Attorney General or upon the Court's own motion, if the minor is at least 16 years of age and charged with being a delinquent (Title 10, Section 938(c), Delaware Annotated Code). If the delinquency charge

involves murder second degree, manslaughter, robbery first or second degree, attempted murder first or second degree, burglary first degree, or arson first degree, an amenability hearing will be scheduled as soon as practicable (Title 10, Section 921(a) (b), Delaware Annotated Code).

In determining whether a child is amenable, the statute sets forth a number of nonexclusive factors for the court's consideration (Title 10, Section 938(c) (1)-(5), Delaware Annotated Code).

IMPLEMENTATION:

By statute, Delaware is in substantial compliance with this standard.

DELAWARE STANDARD 11.4: Delinquency Adjudication Hearings (C14.4, K)

*The adjudication hearing to determine whether a juvenile, alleged delinquent, is in fact delinquent should be separate from the disposition hearing. The juvenile should be afforded full rights given an adult except for trial by jury.*

DELAWARE SITUATION:

This standard reflects present Delaware practice.

IMPLEMENTATION:

Delaware is in substantial compliance with this standard.

DELAWARE STANDARD 11.5: Delinquency Disposition Hearings (C14.5)

*The disposition hearing for a juvenile should be separate from the adjudicatory hearing. The same procedure followed in sentencing an adult defendant should be used.*

DELAWARE SITUATION:

Delaware is in substantial compliance, although the dispositional hearing is sometimes conducted on the same day as the adjudication if there is sufficient information upon which the judge may act.

Manpower shortages in the offices of the Attorney General and the Public Defender often prevent representation at the dispositional hearings. Furthermore, presentence investigations are requested in less than half the cases in Family Court.

IMPLEMENTATION:

Delaware is in substantial compliance with this standard. However, additional funding is necessary to permit more presentence investigations to be ordered and to enable the Attorney General or Public Defender involved to be present at the disposition hearing.

## CHAPTER 12

### THE JUDICIAL ROLE IN EMERGENCY SITUATIONS

#### DELAWARE STANDARD 12.1: Planning Emergency Court Procedures (C15.1-15.2)

*A comprehensive plan for the administration of justice in emergency situations should include a court processing section detailing the judicial policy and court management required to maintain the adversary system.*

*In the absence of an adequate judicial planning body, the portion of the emergency plan covering court operations should be developed under the auspices of representative judges from all courts within the community. If the plan covers several counties or municipalities, the judiciary of each should be included. The council of judges has the responsibility of reviewing, modifying, and approving the court portion of the plan that deals with the defense and prosecution functions.*

#### DELAWARE SITUATION:

Title 10, Chapter 18, Delaware Annotated Code provides for emergency interim judicial succession. Title 20, Chapter 31, Delaware Annotated Code provides for a State civil defense plan. No other comprehensive procedures have been developed by the Court to meet emergency situations. Plans are devised on an ad hoc basis as crises present themselves.

#### IMPLEMENTATION:

Administrative action by the courts is necessary to implement this standard.

#### DELAWARE STANDARD 12.2: Prosecution Services in Emergency Situations (C15.3)

*The prosecutor's office in each participating jurisdiction should develop a plan of action covering the areas of policy (including screening and charging) and case management. The judicial council should have final approval of this plan.*

DELAWARE SITUATION:

Plans are devised upon an ad hoc basis as crises develop.

IMPLEMENTATION:

Administrative action by the affected agencies is necessary to implement this standard.

DELAWARE STANDARD 12.3: Defense Services in Emergency Situations  
(C15.4)

*The Public Defender's Office in each jurisdiction should propose a plan for the defense of arrested persons. The organized bar within the communities should plan for the provision of defense services during an emergency situation. The plan should include both policy and management considerations.*

DELAWARE SITUATION:

Plans are devised on an ad hoc basis as crises develop.

IMPLEMENTATION:

Administrative action by the affected agencies is necessary to implement this standard.

## CORRECTIONS

### Preface:

"Corrections" can be defined as the community's official reaction to the convicted offender, adult and juvenile. In order to reduce crime in the community, the correctional system has been used in many ways. These uses range from punishment to custody to rehabilitation of the convicted offender.

It is essential that the purpose of the correctional system be more clearly defined. The current thrust of the system should be:

1. To reintegrate the offender into the community.
2. To protect the community from the violent offender.
3. To provide custodial care and treatment services in the institution and the community.

The correctional system in Delaware is administered by the State through a commission. Community-based programs for adults include Probation and Parole, Work Release, Work Referral, Release on Recognizance, Volunteers in Probation, and Volunteers in Corrections. Community-based services for juveniles include prevention and aftercare services and group homes.

The standards for Corrections in Delaware focus on the general areas of (1) improved personnel practices; (2) data management, research, and planning; (3) accreditation services; and (4) expansion of community-based services.

In passing, the reader should note the following differentiation between standards and recommendations:

Standards affect government agencies, their behavior, attitude, and procedures. They can (1) be stated in measureable terms; (2) be objectively evaluated; and (3) serve as a basis for legislative or administrative action.

Recommendations are (1) directed at agencies, bodies, or individuals not part of government; and (2) are general in nature.

CORRECTIONS

OBJECTIVES

DELAWARE STANDARD 12: Manpower Development (Chapter 13)

- a. Objective: To improve corrections management.
- b. Objective: To develop a comprehensive training program which includes a minimum of 100 hours of first-year training and 40 hours of annual training.
- c. Objective: To improve recruitment and retention practices through the development of a two-track career ladder with compensation equivalent to other criminal justice sectors.

DELAWARE STANDARD 13: Diversion and Deinstitutionalization  
(Chapter 14)

- a. Objective: To plan and implement a range of alternatives to institutionalization.
- b. Objective: To maximize pre-trial diversion programs.
- c. Objective: To provide detainees with programming.
- d. Objective: To create a full-time Parole Board.
- e. Objective: To decentralize community services.
- f. Objective: To decrease probation/parole officer's caseload.
- g. Objective: To place all juvenile services, prevention, probation, and aftercare under the Bureau of Juvenile Correction.
- h. Objective: To minimize the institutionalization of juveniles.

DELAWARE STANDARD 14: Accreditation Program (Chapter 15)

- a. Objective: For the Department of Correction to participate in the ACA Accreditation Program.
- b. Objective: To establish an ombudsman position to provide administrative regress.
- c. Objective: To improve educational, vocational, medical, and social treatment programs.

DELAWARE STANDARD 15: Research, Planning, and Information Systems (Chapter 16)

- a. Objective: To create an on-line data system for corrections.
- b. Objective: To improve planning and research capabilities for evaluation purposes.

## CHAPTER 13

### MANPOWER DEVELOPMENT

DELAWARE STANDARD 13.1: Manpower Development (C13.4, R9.6, R12:8, R12.1-13.4, R14.1-14.10, R16.4, L5.4-5.5, K)

The State of Delaware should develop a comprehensive manpower development and training program to recruit, screen, train, educate, utilize, and evaluate a full range of correctional personnel, including minority groups, women, ex-offenders, and volunteers. The program should range from entry-level to top-level positions:

1. Provision should be made for effective utilization of a range of manpower on a full- or part-time basis. A systemic approach should be used to identify service objectives and to specify job responsibilities and the range of personnel necessary to meet the objectives. Jobs should be re-examined periodically to insure that organizational objectives are being met.
2. Salaries for all personnel should be made competitive with other parts of the Criminal Justice System and comparable occupational groups in the private sector of the local economy. An annual cost-of-living adjustment should be mandatory.
3. There should be opportunities for staff advancement within the system. The system should provide opportunities for lateral entry and promotional mobility within jurisdictional lines.
  - a. The State should immediately establish a wide salary range within the basic occupational classification. The maximum salary should be sufficient to retain qualified personnel by providing the opportunity for significant salary advancement without promotion to supervisory or management positions.
  - b. Advancement (salary and status) should be along two (2) tracks - service delivery and administration.
4. Recruitment efforts should be designed to produce a staff roughly proportional in ethnic background to the offender population being served. Specific recruitment emphasis should be placed on employing more minorities in middle and upper management positions. The following personnel practices should be eliminated:
  - a. Impediments to hiring physically handicapped.
  - b. Use of questionable personality tests.
  - c. Legal or administrative barriers to hiring ex-offenders.
  - d. Unnecessarily long requirements for experience in correctional work.

5. *Rehabilitated ex-offenders should receive high-priority consideration for employment in correctional agencies.*
6. *Use of volunteers should be expanded substantially.*
7. *Each agency should establish criteria for program personnel and training programs which cover organizational issues.*

DELAWARE SITUATION:

The Department of Correction follows the rules and regulations of the Delaware Merit System (Department of Personnel). The merit salaries for correctional officers are not comparable (\$3,000/year less) to the competitive merit positions for entry-level State police officers. The present merit system does not allow for two-track advancement.

The Department of Correction has only two (2) training officers on the staff (a State position). All additional training monies have been LEAA funds (through FY77). In the past, both the Bureau of Juvenile and Adult Correction have had difficulty providing training for institutional staff due to the lack of manpower to cover the institutions while staff is in training and/or the lack of overtime funds. A recent law (Title 11, Section 6565, Delaware Annotated Code) mandates training of correctional officers employed by the Bureau of Adult Correction. This provides for basic and advanced training at an estimated cost of \$100,000 for FY77. Since community-based staff in both Bureaus is not needed for security positions in institutions, they have been able to participate in in-service training programs. The Bureau of Juvenile Correction has received a \$46,000 DARC grant for training group leaders.

Ex-offenders do not receive high priority for correctional positions except as juvenile case-aids in the Bureau of Juvenile

Correction's Community-Based Service Unit. Ex-offenders are excluded from certain positions such as correctional officers.

The use of volunteers is increasing in Delaware's correctional system. The Volunteers in Corrections Program (an outgrowth of the VIP program) provides a volunteer coordinator to service the Bureau of Adult Correction. In the Bureau of Juvenile Correction, the coordination of volunteers is the responsibility of each institutional superintendent or community unit supervisor.

#### IMPLEMENTATION:

The recommended changes in the merit system can be implemented administratively by the Department of Personnel in cooperation with the Department of Correction.

The recommended increase of correctional salaries to levels comparable with other criminal justice positions in the State can be achieved administratively with an estimated cost of \$500,000 for correctional officers only.

The recommendations on recruitment of minority members can be achieved administratively by the Departments of Personnel and Correction at no cost.

The recommendation for comprehensive training programs can be implemented administratively in cooperation with other criminal justice agencies if funds are available for that purpose. The Department of Correction and the State Police estimate an additional \$131,369 over the \$100,000 already appropriated for FY77.

### SUBCHAPTER A

### CORRECTIONAL MANAGEMENT

#### DELAWARE STANDARD 13.2: Correctional Management (R13.1)

*The Department of Correction should train management staff to institute a management-by-objectives system of administration.*

#### DELAWARE SITUATION:

The system of administration in each sector of the correctional system varies according to the chief administrator's preference and training.

The personnel office of the Department of Correction is going to do a training needs assessment of top administrators (about 50). The scheduled completion date is December 31, 1976.

Management by objectives is one of the skills to be taught to Captains and Lieutenants during the three- to five-day management workshop.

#### IMPLEMENTATION:

This standard can be implemented by the Department of Correction. The Commissioner should initiate management change. Costs for managerial training have not been estimated.

#### DELAWARE STANDARD 13.3: Participatory Management (R13.2, R14.7, K)

*The Department of Correction should adopt a program of participatory management involving managers, staff, and offenders. All levels should participate in identifying problems, finding mutually agreeable solutions, setting goals and objectives, defining new roles for participants, and evaluating the effectiveness of these processes.*

#### DELAWARE SITUATION:

A form of participatory management is currently used by the Bureau of Juvenile Correction for all its programs. The Bureau of Adult Correction uses it for selected programs.

#### IMPLEMENTATION:

This standard can be implemented administratively by the Department of Correction with the direction of the Commissioner. Training costs are associated with the implementation of this standard.

DELAWARE STANDARD 13.4: Employee-Management Relations (R13.3)

*The Department of Correction should develop the capability to relate effectively to and negotiate with employees.*

1. *Management training should be available to all managers and employees.*
2. *Detailed procedures relating to labor-management or inmate-management relations should be developed.*

DELAWARE SITUATION:

In FY76, correctional administrators attended management seminars at the Wharton School, University of Pennsylvania.

IMPLEMENTATION:

This standard can be implemented through reorganization and training. Costs associated with the implementation of this standard are the managerial costs covered in Standard 13.1.

DELAWARE STANDARD 13.5: Work Stoppages and Job Actions (R13.4)

*The Department of Correction should immediately prepare to deal with any concerted work stoppage or job action by correctional employees.*

1. *By 1978, the State of Delaware should enact legislation that specifically prohibits correctional employees from participating in any concerted work stoppage or job action. Included in such legislation should be a requirement for mandatory mediation (preferably with the Federal Mediation and Conciliation Service) and the right, during collective bargaining, to negotiate a grievance procedure which may include binding arbitration (grievance arbitration). Excluded from the legislation should be arbitration (interest arbitration) which deals with impasses reached during the collective bargaining process between the exclusive bargaining representative and the public employee.*
2. *The Department of Correction should establish formal written policy prohibiting employees from engaging in any concerted work stoppage. General policy should be developed to prevent illegal strikes.*
3. *The Department of Correction should develop a plan which will provide for continuing correctional operations in the event of a concerted employee work stoppage.*

DELAWARE SITUATION:

Title 19, Section 1312, Delaware Annotated Code prohibits strikes by correctional officers. It permits, but does not require, mediation and arbitration.

IMPLEMENTATION:

Legislation should be enacted which includes mandatory mediation. The Department of Correction can then develop appropriate policy and procedures. No costs are associated with the implementation of this standard.

DELAWARE STANDARD 13.6: Institutional Staffing Patterns (R11.3, 11.4, K)

*Correctional personnel should be involved in all correctional programming and institutional tasks. To facilitate this staffing organization, the staff/inmate ratio should be one (1) to six (6).*

DELAWARE SITUATION:

Correctional personnel are not presently involved in all correctional programming because of a lack of training and understaffing. With a rising prison population at both the juvenile and adult levels, the staff ratio is now above the recommended level of one (1) to six (6).

IMPLEMENTATION:

Administrative action and training are needed to involve personnel in programming.

Staff/inmate ratio can be implemented by administrative action accompanied by additional appropriations for new personnel. No cost estimate is available at this time.

DELAWARE STANDARD 13.7: Employment of Volunteers (R14.5, K)

*The Department of Correction should begin immediately to recruit and use volunteers from all walks of life as a valuable additional resource in correctional programs and operations. Specific policies and procedures for the use of volunteers should be developed.*

DELAWARE SITUATION:

The Volunteers in Corrections and Volunteers in Probation are structured volunteer programs within the system. All juvenile programs use volunteers, but these efforts are dependent on the volunteers' initiatives and the availability of staff to help the volunteers.

IMPLEMENTATION:

This standard can be fully implemented through administrative policy and by State funding for (1) the VIC program (\$5,680/year), (2) a volunteer coordinator, and (3) the operational costs of juvenile programs (\$25,000/year).

DELAWARE STANDARD 13.8: Redistribution of Correctional Manpower Resources to Community-Based Programs (R14.8)

*The Department of Correction and other agencies should undertake cooperative studies to determine proper methods of allocating manpower and resources for community-based services.*

DELAWARE SITUATION:

There are no existing plans for manpower studies.

IMPLEMENTATION:

This standard can be accomplished by the Department of Correction in cooperation with various State agencies (i.e., the Division of Mental Health, the Division of Social Services, etc.). No costs

are associated with the planning phase. Implementation would involve possible purchase-of-services agreements which would be a cost-effective method of delivering services.

DELAWARE STANDARD 13.9: Manpower for Probation and Parole of the Bureaus of Adult and Juvenile Correction (R12.8, R16.4, K)

*The State of Delaware should develop a functional workload system linking specific tasks to different categories of clients. This system should form the basis of allocating manpower resources.*

DELAWARE SITUATION:

The Bureau of Adult Correction instituted a functional workload system by Executive Directive dated January 16, 1976.

The Bureau of Juvenile Correction does not have any policy on a functional workload.

IMPLEMENTATION:

This standard can be further implemented through administrative action and associated training. No costs are associated with the further implementation of this standard.

SUBCHAPTER B

STAFF DEVELOPMENT

DELAWARE STANDARD 13.10: Staff Development (C12.8, R10.4, R13.3, R14.6, R14.10, S12.1, S12.2)

*The Department of Correction should immediately plan and implement a staff development program that prepares and sustains all staff members.*

*Highly developed training programs for all staff members should be implemented.*

1. *All managers should have at least 40 hours a year of executive development training.*

2. All new staff members should have at least 100 hours of orientation and first-year training.
3. All staff members should have at least 40 hours of training a year.

DELAWARE SITUATION:

Training for correctional personnel in the period 1974-1976 consisted of the following components: (1) working in supervision and rehabilitation; (2) workshop in empathy training (Probation and Parole); and (3) workshop in management training. Through the LEEP Program, tuition is paid for approved post-secondary courses at institutions of higher education, thus providing an incentive for further education. Currently, personnel are taking courses at Delaware Technical and Community College and the University of Delaware. There are 25 correctional officers pursuing an Associate of Arts degree in criminal justice.

The current difficulties with the training program are as follows: (1) lack of funds to allow correctional officers time off during their shifts of duty for in-service training and/or leave time for other types of training courses; (2) lack of necessary fiscal support for correctional personnel to participate in part- and/or full-time educational advancement; (3) inconsistent, overlapping, and unclear merit system specifications; (4) lack of clear, automatic reclassification of personnel in the merit system and/or automatic increments upon the completion of academic attainment; and (5) lack of direct involvement by the Correctional Guards Union in training, planning, and activities.

A recent law (Title 11, Section 6565, Delaware Annotated Code) mandates the provision of mandatory training of correctional officers employed by the Bureau of Adult Correction. This provides for

basic and advanced training at an estimated cost of \$100,000 for FY77.

IMPLEMENTATION:

Subject to funding, this standard can be implemented administratively by the Department of Correction through planning and reorganization. Costs associated with the implementation of this standard have not been estimated.

DELAWARE STANDARD 13.11: Recruitment of Correctional Staff (R14.2-14.6)

*The Department of Correction should develop personnel policies that will improve the image of corrections and facilitate fair and effective selection for correctional positions.*

*The Department should eliminate any policies or procedures which hinder recruitment of qualified persons. Policies should promote the recruitment of minority groups, women, and indigenous workers.*

DELAWARE SITUATION:

Recruitment of correctional staff is regulated by the Manual of Personnel Policies for the Merit System of Personnel Administration and the Rules for Merit System of Personnel Administration.

The State of Delaware Personnel Department does actively recruit minorities and women. But, the Department of Correction could increase its activity in this area.

The recommendations on training in this standard are not presently implemented.

The Bureau of Juvenile Correction does not use uniforms for its security officers. At the adult institutional level, military terms, uniforms, etc., are used. There is very little movement away from this aspect of security.

### IMPLEMENTATION:

This standard can be implemented administratively by policy and procedure changes. There will be costs incurred by the training program. These costs are covered in Standard 13.1.

### DELAWARE STANDARD 13.12: Personnel Practices for Retaining Staff (R14.6)

*To retain capable staff, correctional agencies should immediately re-examine and revise personnel practices to create a favorable organizational climate and to eliminate legitimate causes of employee dissatisfaction. These policies should include flexible workload distribution and schedules, elimination of excessively structured bureaucratic characteristics, and a criminal justice career pension system.*

### DELAWARE SITUATION:

The Department of Correction, with its present understaffing, is unable to facilitate enforcement of any policy allowing a flexible workload distribution. Formal written policy has been established, but the increasing workload nullifies the intent.

Senate Bill 787 signed July 22, 1976 strikes Section 6555 of Title 11, Delaware Annotated Code and amends Title 29 to add Section 5534, establishing a 5% contributory pension for correctional officers. Senate Bill 861 signed July 30, 1976 makes the pension benefits program effective April 30, 1977. Contributory pension covers judiciary. State Police do not contribute, thus there is no career pension system.

### IMPLEMENTATION:

The recommendations in this standard can be implemented administratively by the Departments of Correction and Personnel.

The costs associated with the implementation of this standard include an across-the-board increase in correctional salaries and a pension plan. An estimate of such costs requires further cost analysis.

DELAWARE STANDARD 13.13: Internship and Work-Study Programs (R14.10)

*Correctional agencies should immediately begin to plan, support, and implement internships and work-study programs to attract students to corrections as a career. This program should include recruitment, student stipends, and future employment commitments by the agency.*

DELAWARE SITUATION:

Internship and work-study are now arranged in an unstructured fashion. Only the Bureau of Juvenile Correction has any formal policy on the matter (Division Policy No. 604, Student Field Placements or Practicum).

IMPLEMENTATION:

This standard can be achieved administratively by the Department of Correction. The costs associated with the implementation of this standard would be student stipends and the costs of replacements for those employees absent on work-study programs.

DELAWARE STANDARD 13.14: Coordinated State Plan for Criminal Justice Education (R14.9)

*The State of Delaware should establish a State plan for coordinating criminal justice education to assure a sound academic continuum from Associate of Arts through graduate studies in criminal justice, to allocate educational resources to sections of the State with defined needs, and to work toward proper placement of persons completing these programs.*

*This plan should include an incentive system for correctional personnel to participate in higher education programs.*

DELAWARE SITUATION:

The State of Delaware does not have a comprehensive criminal justice educational plan.

IMPLEMENTATION:

This standard can be implemented administratively through the cooperation and coordination of institutions of higher education in this State and nearby states. The development of incentives for

participation in higher education programs can be accomplished administratively by the Department of Correction and the Department of Personnel.

The costs associated with the implementation of this standard include the development of an incentive program. No estimate is available without further study.

## CHAPTER 14

### DIVERSION AND DEINSTITUTIONALIZATION

DELAWARE STANDARD 14.1: Diversion and Deinstitutionalization  
(L3.2-3.8, R2.1, R6.1-6.3, R10.1-10.5,  
R12.1-12.8, K)

*The State of Delaware should continue to develop and implement organized programs of diversion and deinstitutionalization in the criminal justice process from the time an illegal act occurs to adjudication.*

1. *The planning process and the identification of diversion services should adhere to the principle of total system planning.*
  - a. *Using planning data available, responsible authorities at each step in the criminal justice process where diversion may occur should develop priorities, lines of authority and responsibility, procedures, and other policies to serve as guidelines to its use.*
  - b. *Mechanisms for review and evaluation of policies and practices should be established.*
  - c. *Criminal justice agencies should seek the cooperation and resources of other community agencies which provide services relating to individual problems and needs.*
  - d. *A collaborative planning effort should be made to determine the legitimate role of each institution in the correctional system.*
2. *Each diversion program should operate under a set of written guidelines that insure periodic review of policies and decisions. The guidelines should specify:*
  - a. *Program objectives and target population;*
  - b. *Means of evaluating diversion decisions;*
  - c. *That the diverting official state in writing the basis for his determination to deny or approve diversion in each case; and*
  - d. *That the agency operating diversion programs maintain a current and complete listing of various resource dispositions available to diversion decision decisionmakers.*
3. *The criteria to be used in determining whether an offender, following arrest but prior to adjudication, should be selected for diversion to a non-criminal program, should include, but not be limited to, the following:*
  - a. *Prosecution toward conviction may cause undue harm to the defendant or exacerbate the social problems that led to his criminal acts;*

- b. Services to meet the offender's needs and problems are unavailable within the Criminal Justice System or may be provided more effectively outside the system;
  - c. The arrest has already served as a desired deterrent;
  - d. The needs and interests of the victim and society are served better by diversion than by official processing;
  - e. The offender does not present a substantial danger to others;
  - f. The offender voluntarily accepts the offered alternative to further processing within the system; and
  - g. The facts of the case sufficiently establish that the defendant committed the alleged act.
4. Deinstitutionalization should be viewed as a step towards diversion in the plan. Alternatives to institutionalization should be developed. Minimum alternatives to be included in the plan should be the following:
- a. Diversion mechanisms and programs prior to trial and sentence;
  - b. Nonresidential supervision programs in addition to probation and parole;
  - c. Residential alternatives to incarceration;
  - d. Community resources open to confined populations and institutional resources available to the entire community;
  - e. Pre-release programs in the institution; and
  - f. Community facilities for released offenders in the critical re-entry phase, with provision for short-term return as needed.
5. Criteria to be used in determining whether an offender, following conviction, should be sentenced to noninstitutional programs should include the following:
- a. Only juveniles posing a serious threat to the community should be placed in institutions;
  - b. Services to meet the offender's needs and problems can be more effectively provided by community-based programs;
  - c. The needs and interests of the victim and society are served better by noninstitutionalization of the offender; and
  - d. The offender does not present a substantial danger to others.

### DELAWARE SITUATION:

This standard calls for the development of total system planning for diversion. Responsibility falls within DARC's (Delaware Agency to Reduce Crime) planning function.

In the State of Delaware, there are few formalized diversion programs. There is no extensive program to date. All of the police departments in the State use the officer's discretionary powers to divert persons from the system. There is no consistent policy among the various police jurisdictions. The only formalized statewide diversion program is the Alcohol Counter-Measures Program which establishes formal methods and procedures for the diversion of alcohol-related offenders from the Criminal Justice System to the medical system. The only other formalized diversion is the City of Wilmington's Youth Aid Diversion Officer Program.

In the court system, a diversion mechanism exists in pre-trial screening and in Family Court's voluntary adjustment process.

The Bureau of Juvenile Correction's Community-Based Program Unit is responsible for diversion and prevention in the community. Presently, New Castle County Prevention Units are in full operation, while Kent and Sussex County units are being developed by the Bureau of Juvenile Correction. The Bureau of Adult Correction provides diversion service through its presentence function and the Community Service Program.

### IMPLEMENTATION:

This standard can be implemented administratively by the criminal justice agencies in the State. Planning can be implemented by the Department of Correction. Recommendations on program and resource development can be operationalized by the Department of Correction through planning, organization development, and training.

There will be costs incurred if this standard is implemented, but it is not possible to estimate such costs without specific plans for implementation. Diversion and deinstitutionalization programs have been shown elsewhere to be less costly than institutional programs.

#### SUBCHAPTER A

#### PRE-TRIAL

#### DELAWARE STANDARD 14.2: Organization of Pre-Trial Services (R4.1)

*The State of Delaware should enact legislation specifically establishing administrative authority over and responsibility for persons awaiting trial.*

#### DELAWARE SITUATION:

Title 11, Section 2114, Delaware Annotated Code mandates the administration of the pre-trial services to the Department of Correction.

#### IMPLEMENTATION:

This standard is fully implemented.

#### DELAWARE STANDARD 14.3: Comprehensive Pre-Trial Process Planning (R4.1-4.2)

*Delaware's Criminal Justice System should develop a comprehensive plan for improving the pre-trial process.*

#### DELAWARE SITUATION:

A comprehensive plan as recommended in the standard was published in January 1975, by the Division of Urban Affairs, University of Delaware entitled Delaware's Pretrial Services.

IMPLEMENTATION:

This standard has been implemented. Cost estimates are included in the plan.

DELAWARE STANDARD 14.4: Alternatives to Arrest (C2.1-2.2, R4-3-4.4, K)

*Each State or local criminal justice agency, where appropriate, should immediately develop a policy and seek enabling legislation, as necessary, to encourage the use of citations in lieu of arrest and detention.*

DELAWARE SITUATION:

Title 11, Section 1907, Delaware Annotated Code allows for the use of citations and summons in lieu of arrest for a misdemeanor. The Wilmington Police Department currently uses this alternative. The Misdemeanant Processing Project is focusing on the further use of citations for misdemeanants.

IMPLEMENTATION:

This standard can be implemented administratively by the various police departments in the State.

Policy-making and training are necessary.

DELAWARE STANDARD 14.5: Construction Policy for Pre-Trial Detention Policies (R4.2)

*The State of Delaware should adopt a policy that no detention facility will be constructed until all other alternatives are exhausted.*

DELAWARE SITUATION:

The Department of Correction complies with this standard. The General Assembly has ultimate authority to fund new construction.

It is currently committed to several projects, but no new legislation has been introduced to fund more detention facilities.

IMPLEMENTATION:

The standard can be implemented by the Department of Correction through formal adoption of current practice.

DELAWARE STANDARD 14.6: Procedures Relating to Pre-Trial Release and Detention Decisions (R4.5, K)

*The courts and the Department of Correction should develop standard procedures governing pre-trial release and detention decisions. These procedures should include the pre-trial investigation process and the detention hearing process.*

DELAWARE SITUATION:

This standard is substantially in operation through court and pre-trial unit procedures. These are enforced by the mandate in Title 11, Chapter 21, Delaware Annotated Code.

IMPLEMENTATION:

The only implementation actions necessary are administrative review by the courts and the Department of Correction.

DELAWARE STANDARD 14.7: Pre-Trial Detention Admission Process (R4.7)

*During the admission process, all detainees should be provided with individual living space, personal necessities, social counseling, and a medical examination.*

DELAWARE SITUATION:

The adult detention facilities are not capable of providing a speedy, comprehensive admission process due to the current overcrowding of the institutions. The Department of Correction has

medical services at its facilities; however, the heavy population tends to reduce the adequacy of these services. The juvenile facilities, Stevenson House and Bridge House, comply with the standard.

#### IMPLEMENTATION:

Implementation of this standard can be achieved administratively by the Department of Correction through reorganization, staffing changes, and training.

There will be major costs associated with implementation if the present pre-trial population figures remain constant and/or increase. No cost estimate is available without further study.

#### DELAWARE STANDARD 14.8: Alternatives to Pre-Trial Detention (C4.6, R4.4, K)

*Within its area of responsibility, each State or local criminal justice agency should seek enabling legislation to develop, authorize, and encourage the use of a variety of alternatives to the detention of persons awaiting trial.*

#### DELAWARE SITUATION:

The legislation recommended in the standard is in effect (Title 11, Sections 2104 and 2108, Delaware Annotated Code). All Delaware courts use these alternatives.

#### IMPLEMENTATION:

Constant self-monitoring of the use of detention alternatives will implement this standard.

#### DELAWARE STANDARD 14.9: Probation and Release on Recognizance Programs (R10.5)

*Each probation officer serving a community should develop, in cooperation with the court, additional staff and procedures to investigate arrested adult defendants for possible release on recognizance (ROR) while awaiting trial, thus avoiding unnecessary detention in jail.*

DELAWARE SITUATION:

The Pre-Trial Unit of the Bureau of Probation and Parole provides ROR investigation services.

IMPLEMENTATION:

Current implementation is meeting the standard.

DELAWARE STANDARD 14.10: Adult Intake Services (R4.5, R4.8-4.9)

*The court system of Delaware should evaluate its investigative services for pre-trial intake screening. Pre-trial screening process should, in conjunction with the Department of Correction, facilitate the diversion of alleged offenders to community services. This type of intake process should maximize release for all pre-trial offenders except those who pose a serious threat to the community.*

DELAWARE SITUATION:

The Delaware court system, in conjunction with the Department of Correction, provides adult intake services. A study of Delaware's pre-trial services was done in January 1975. The recommendations from this study have not been acted upon to date. The Misdemeanant Processing Project is developing pre-trial services for misdemeanants.

IMPLEMENTATION:

This standard can be implemented administratively by the Department of Correction in conjunction with the courts. The costs associated with implementation would be for specialized pre-trial personnel.

DELAWARE STANDARD 14.11: Programs for Pre-Trial Detainees (R4.8-4.9)

*The State of Delaware's criminal justice agencies responsible for the detention of persons awaiting trial should develop and implement programs which would be available to the detainees on a voluntary basis.*

## DELAWARE SITUATION:

There is no structured programming for pre-trial detainees at any adult institution; but, detainees may avail themselves of the programs operating in the institution.

## IMPLEMENTATION:

This standard can be implemented administratively by the Department of Correction. There will be costs associated with the implementation of this standard. Further planning is needed for estimating such costs.

### SUBCHAPTER B

### INTERNAL DISPOSITIONS

DELAWARE STANDARD 14.12: Development Plan for Community-Based Alternatives to Confinement (R2.1, F7.1-7.3, R9.1, R16.4, K)

*The Department of Correction should analyze its needs, resources, and gaps in service. A systematic plan with timetable and scheme for implementing a range of alternatives to institutionalization should be developed. Minimum alternatives to be offered either by correctional agencies or other community resources should include:*

1. *Diversion programs prior to trial and sentence;*
2. *Nonresidential supervision programs in addition to probation and parole;*
3. *Residential alternatives to incarceration;*
4. *Community resources open to confined populations and institutional resources available to the entire community;*
5. *Pre-trial programs; and*
6. *Community facilities for released offenders in the critical re-entry phase, while providing short-term return as needed.*

## DELAWARE SITUATION:

### Adult Corrections:

The only formalized pre-trial diversion program for adults is the Municipal Court's Pre-Trial Diversion Program.

The Bureau of Probation and Parole provides normal probation and parole supervision, the Volunteers in Correction, the Volunteers in Probation, Community Work Service, and the Work Referral Program as nonresidential supervision programs.

The Plummer Center, as part of the Work Release Program, is the only residential alternative to incarceration. This pre-release program is also the only program available to inmates, but it cannot serve the entire population. Project HELD, a new privately-run program, is the only community facility available for ex-offenders during their re-entry phase.

In Delaware, the only community resource available to the confined population is the medical services provided by the area hospitals. There are no institutional resources available to the entire community except occasional use of DCC's chapel.

#### Juvenile Correction:

All major police departments (State, New Castle County, and the City of Wilmington) have formalized policy and/or programs for the diversion of juveniles before arrest. Family Court's voluntary adjustment program is the pre-trial diversion program for juveniles at that step in the Juvenile Justice System.

Family Court's treatment staff and the Bureau of Juvenile Correction refer juveniles for service to various community agencies. This effort is the only expansion of traditional nonresidential supervision program.

The only residential alternatives to incarceration for juveniles are placement at the Governor Bacon Health Center, Adolescent Unit of the Delaware State Hospital, or various privately run group homes (Union Baptist, Camelot, AID House) and foster homes. There are no pre-release programs as separate entities in the juvenile

system, but the behavior management program used by the institutions and the formalized transition process from institutionalization to aftercare provide the needed pre-release services.

Various community health resources are available to the confined juveniles. No institutional resources are available to the general community.

The aftercare unit can provide limited residential facilities for released juveniles through purchase-of-care agreement with private agencies.

#### IMPLEMENTATION:

Plans for community-based alternatives to confinement in Delaware have been prepared by the Department of Correction in conjunction with DARC, Delaware Council on Crime and Justice (DCCJ), University of Delaware's Division of Urban Affairs, and the Delaware Bar Association. The plans have included all of the enumerated programs listed in the standard. Therefore, this standard has been substantively accomplished in Delaware. The lack of resources has hindered implementation. A cost estimate is dependent upon specific implementation strategy.

#### DELAWARE STANDARD 14.13: Community Classification Teams (R6.3)

*In planning community-based programs, the Department of Correction should use classification teams to encourage the diversion of selected offenders from the Criminal Justice System, minimize the use of institutions for convicted or adjudicated offenders, and program individual offenders for community-based programs (See Standard 15.3).*

#### DELAWARE SITUATION:

Recent law, Title 11, Sections 6528-6529 (a), Delaware Annotated Code established two (2) separate classification Boards - an Institutional Classification Board and an Institutional Release Classification Board. This Institutional Release Classification Board could be the beginning of a community classification team, depending upon its implementation.

## IMPLEMENTATION:

This standard can be accomplished administratively by the Department of Correction, in cooperation with other criminal justice agencies. Reorganization and training is needed.

The costs associated with the implementation of this standard will be incurred in the implementation of Standard 15.3.

## DELAWARE STANDARD 14.14: Special Offender Types (R11.5, K)

*The Department of Correction, and each of its institutions, should re-examine its policies, procedures, and programs for the handling of special problem offenders.*

- 1. Addicts convicted only of violation of substance abuse laws should be dealt with by methods other than incarceration. Each institution must develop programs geared to the needs of serious offenders who are also substance abusers.*
- 2. The departments should make special provisions other than segregation for inmates who are serious behavior problems and an immediate danger to others.*
- 3. The Department should provide psychiatric treatment for emotionally disturbed offenders. Psychotic offenders should be transferred to mental health facilities. Correctional institution treatment of the emotionally disturbed should be under the supervision and direction of psychiatrists.*

## DELAWARE SITUATION:

The Delaware Correctional Center is the only adult institution with special programming available to drug addicts and alcoholics. The Bureau of Adult Correction has one (1) psychologist and a part-time psychiatrist on staff. Plans for a separate facility for the emotionally disturbed on the DCC grounds is underway.

The Bureau of Juvenile Correction provides specialized services through its Medical-Reception Unit at Ferris School. Both Bureaus use the services of the Division of Mental Health to some extent.

## IMPLEMENTATION:

This standard can be implemented administratively by the Department of Correction in cooperation with the Department of Health and Social Services.

The costs associated with the implementation of this standard are mainly personnel expenditures. No estimate is available without further study, which should include sharing of personnel between the Department of Correction and the Department of Health and Social Services.

## DELAWARE STANDARD 14.15: Internal Detention Policies (R4.8)

*The Bureau of Adult Correction should adopt internal policies covering:*

1. *A system of classification for residential assignment and program planning, including segregation of diverse categories of inmates and identification of special supervision and treatment requirements;*
2. *A Pre-Trial Bill of Rights;*
3. *Medical services; and*
4. *Safe and healthful environment.*

## DELAWARE SITUATION:

Present policy on these matters is in the Delaware Correctional Center's Inmate Reference Manual. This policy does not comply with the standard. The overcrowding at all the adult institutions inhibits enforcement of any such policy.

## IMPLEMENTATION:

This standard can be implemented by the Department of Correction with cooperation from the Department of Health and Social Services. The first step is the implementation of the classification system recommendations in Chapter 15. Specialized medical programs can be developed by the Department of Correction in conjunction with the Department of Health and Social Services. General medical services will require an increase of medical personnel assigned to Delaware institutions.

This standard will require additional funding for medical services and programs in the Department of Correction. Cooperative planning by the Department of Correction and the Department of Health and Social Services is necessary before cost estimates can be determined.

SUBCHAPTER C  
PROBATION/PAROLE

DELAWARE STANDARD 14.16: Organization of Paroling Authorities  
(R12.1-12.2, K)

*The State of Delaware should establish a parole board for adult offenders that is independent of the Department of Correction.*

*The board responsible for adult offenders should have jurisdiction over both felons and misdemeanants. The board should be specifically responsible for articulating policy such as contract parole, acting on appeals by correctional authorities or inmates on decisions made by the board, and issuing and signing warrants to arrest and hold alleged parole violators.*

DELAWARE SITUATION:

The State of Delaware has an Autonomous Board of Parole as mandated by Title 11, Section 4314, Delaware Annotated Code.

The Board of Parole of the State of Delaware has the following mandated functions: the determination of parole eligibility where the Court or the Department of Correction so specify; the responsibility and authority to conduct revocation hearings concerning parole violations; and the responsibility to promulgate rules and regulations for the supervision, discharge from supervision, or retaking of paroled prisoners, including prescribing terms and conditions to govern the prisoner while on parole or mandatory release (Policies and Procedures of the Board of Parole, State of Delaware, 1974).

IMPLEMENTATION:

The standard is in effect.

DELAWARE STANDARD 14.17: Parole Authority Personnel (R12.2, K)

*The General Assembly should enact legislation which specifies the qualifications and conditions of appointment of parole board members. The Parole Board should consist of not less than three (3) full-time members who possess specialized training and are appointed by the governor for six-year terms.*

*The Board of Parole should have a staff of two (2) full-time investigators appointed under civil service regulations.*

DELAWARE SITUATION:

The present Board of Parole is composed of four (4) part-time members who serve a four-year appointed term and a full-time chairperson as specified in Title 11, Section 4341, Delaware Annotated Code.

Currently, the Board of Parole is dependent upon the institutional staff and the parole field service staff for the information necessary to grant and/or revoke parole.

IMPLEMENTATION:

The implementation of this standard would require legislative action to change Title 11, Section 4341, Delaware Annotated Code to mandate six-year term appointments of full-time members with appropriate academic qualifications.

The addition of an investigative staff to the Board can be accomplished by administrative action and accompanying appropriations. The approximate cost of this standard would be an additional \$70,000 per year.

DELAWARE STANDARD 14.18: Parole and Revocation Hearings (R12.3-12.4, K)

*The Board of Parole should develop policies for parole release hearings that include opportunities for personal participation by the inmates concerned; procedural guidelines to insure proper, fair, and thorough consideration of every case; prompt decisions and personal notification of decisions to inmates; and provision for accurate records of deliberations and conclusions. The statutory requirement should be patterned after the Model Penal Code.*

*The Board of Parole should implement a system of revocation procedures to permit the prompt confinement of parolees exhibiting behavior that poses a serious threat to others. At the same time, it should provide careful controls, methods of fact-finding, and possible alternatives to keep as many offenders as possible in the community. Return to the institution should be used as a last resort, even when a factual basis for revocation can be demonstrated. The revocation hearing rules should accord the parolee the rights of procedural due process.*

DELAWARE SITUATION:

The parole and revocation hearing procedures as recommended are in line with the current Parole Board's policies, regulations, and procedures.

IMPLEMENTATION:

This standard is fully implemented.

DELAWARE STANDARD 14.19: Organization of Field Services (R12.5)

*Parole services should be delivered through a team system.*

DELAWARE SITUATION:

Currently, parole services are delivered through one-to-one counseling.

IMPLEMENTATION:

This standard can be implemented by administrative action including reorganization and training. Small start-up costs would be associated with implementation. A team system allows more effective use of personnel and decreases the caseload.

DELAWARE STANDARD 14.20: Organization of Probation and Parole  
(R10.1, R12.5)

*The organization of probation and parole field services should be placed in the executive branch of government under the State correctional authority. The consistent standards relating to probation and parole should be used on a statewide basis.*

DELAWARE SITUATION:

Title 11, Sections 4302-4321, Delaware Annotated Code implements this standard.

IMPLEMENTATION:

No further implementation is needed.

DELAWARE STANDARD 14.21: Services to Probationers and Parolees  
(R10.2, R12.6, K)

*The Bureau of Probation and Parole should develop a service delivery system that seeks to remove or reduce barriers confronting probationers and parolees. The needs of probationers and parolees should be identified, priorities established, and resources allocated based on established goals of the probation and parole system.*

*A decentralized delivery system should be established which will promote the community resource manager function of the probation/parole officer.*

DELAWARE SITUATION:

The Bureau of Probation and Parole presently maintains a centralized delivery system of services. The probation officer under the present system functions as a counselor, not a resource manager.

IMPLEMENTATION:

The standard can be implemented administratively through reorganization and training. No costs are associated with the implementation. The present level of personnel under the recommended reorganization could provide more effective service delivery.

DELAWARE STANDARD 14.22: Community Services for Parolees and Probationers (R10.2, R12.6, K)

*The State of Delaware should develop a range of programs to meet the needs of parolees and probationers. The majority of services should be drawn from community programs available to all citizens. A staff should provide the link between services and the clients needing or desiring them. The role of the probation/parole officer should become that of a community resource manager. Probationers' and parolees' cases should be reviewed for assignment according to the individual's need for supervision.*

DELAWARE SITUATION:

The Bureau of Community-Based Services attempts to use all services available, but because of the heavy caseload, the major function of the officer is that of supervision. The Executive Directive dated January 16, 1976 established a review process and functional caseloads.

IMPLEMENTATION:

The recommendation to have the officer act as a resource manager can be implemented through training. No costs are associated with the implementation of this standard.

DELAWARE STANDARD 14.23: Misdemeanant Probation (R10.3)

*The State of Delaware should develop additional probation manpower and resources to assure that the courts may use probation for persons convicted of misdemeanors in all cases where it is appropriate. Other than the possible length of probation terms, there should be no distinction between misdemeanant and felony probation as to organization, manpower, or services.*

DELAWARE SITUATION:

The Bureau of Probation and Parole makes no distinction between misdemeanant and felony probation as recommended in the standard.

IMPLEMENTATION:

This standard is fully implemented.

DELAWARE STANDARD 14.24: Measures of Control (R12.7, R16.11, K)

*The State of Delaware should reduce parole rules to an absolute minimum retaining only those critical to the individual case. It should provide effective means for enforcing the conditions established.*

DELAWARE SITUATION:

The Delaware Parole Board in conjunction with the Department of Correction has modified the conditions of parole to a minimal level. For all practical purposes, this standard has been implemented.

IMPLEMENTATION:

No further implementation is needed.

DELAWARE STANDARD 14.25: Release Programs (R3.1, R6.1, R9.9, K)

*The Bureau of Adult Correction should develop release programs using community leadership, social agencies, and business interests as well as the Criminal Justice System. An integral part of the release program should be job placement.*

DELAWARE SITUATION:

The Work Release Program and traditional parole services are the only existing release programs in the State.

IMPLEMENTATION:

The standard can be implemented through program planning in coordination with the private business sector. Costs will depend on the method of implementation.

DELAWARE STANDARD 14.26: Inmate Involvement in Community Programs  
(R3.1, R7.1-7.4)

*The Department of Correction through its classification system should develop procedures for offenders sentenced to correctional institutions to assume increasing individual responsibility and community contact. Individual choice, supervision, and community contact should be specified in these arrangements with explicit statements as to transitions between levels to be accomplished. Progress from one (1) level to another should be based on specified behavioral criteria rather than on sentence, time served, or subjective judgments regarding attitudes.*

DELAWARE SITUATION:

Adult Correction:

There is no systematic arrangement for community contact. A new coalition organization at the Delaware Correctional Center (DCC), the Friends and Family of Prisoner's Association, and the volunteer groups at the Women's Correctional Institution (WCI) are promoting inmate involvement in community programs. The Work Release Program is designed to increase the inmate transition back into the community.

Juvenile Correction:

This type of inmate involvement is in effect through the behavior modification treatment program used at the juvenile institutions.

IMPLEMENTATION:

This standard can only be implemented after the development of a comprehensive classification system as recommended in this Chapter. Development will incorporate this standard into departmental policy administratively.

The costs associated with implementation are part of implementing Standard 13.7.

## SUBCHAPTER D

### JUVENILE PRE-TRIAL, PROBATION, AND AFTERCARE

#### DELAWARE STANDARD 14.27: Comprehensive Process Planning for Juveniles (L3.1-3.8, R3.1, R8.3, K)

*The State of Delaware and all jurisdictions with the State should begin to develop a comprehensive plan for improving the pre-trial process for juveniles.*

#### DELAWARE SITUATION:

The Delaware Agency to Reduce Crime's Juvenile Prevention and Delinquency Plan for 1977 is an initial planning effort.

#### IMPLEMENTATION:

This standard can be implemented administratively by Family Court with the cooperation of all criminal justice agencies and the Delaware Agency to Reduce Crime.

#### DELAWARE STANDARD 14.28: Construction Policy for Pre-Trial Detention Facilities for Juveniles (R4.2)

*The State of Delaware should adopt a policy that no new physical facility for detaining juveniles awaiting trial should be constructed and no funds should be appropriated or made available for such construction until all alternatives are exhausted. If a need arises, plans for construction should be in accordance with the current American Correctional Association Standard.*

#### DELAWARE SITUATION:

At present, Bridge House and Stevenson House are adequate facilities. The Department of Correction has no formal policy on construction.

IMPLEMENTATION:

This standard can be implemented through the adoption of formal policy to support current practice.

DELAWARE STANDARD 14.29: Role of Police in Juvenile Intake and Detention (R8.1, K)

*Family Court should develop procedures that separate police officers from juvenile detention decisions.*

*Police agencies should establish policies to divert juveniles to alternative programs outside the Juvenile Justice System. Police guidelines should follow the provisions of Gault and Miranda.*

DELAWARE SITUATION:

Family Court Rule 50 removes a peace officer from the detention decision process. The major police departments, (Wilmington, State, and New Castle County) all have youth aid units which have specific policies on the diversion of juveniles. The guidelines of Gault and Miranda are followed.

IMPLEMENTATION:

The full implementation of police diversion of youth can be achieved administratively by inter-agency cooperation and training. The costs associated with the implementation are minor police training costs.

DELAWARE STANDARD 14.30: Juvenile Intake and Detention Personnel Planning (R8.4)

*Family Court should re-examine its personnel policies governing juvenile intake and detention personnel and make such adjustments as may be indicated in order to insure that they are compatible with, and contribute to reintegrating, juvenile offenders into the community without unnecessary involvement with the Juvenile Justice System. The standards set forth in Chapter A, Manpower and Staff Development, should be observed.*

DELAWARE SITUATION:

Family Court Rule 90 and its specialized Detention Unit's procedures are compatible with the guidelines of this standard.

IMPLEMENTATION:

This standard is fully implemented.

DELAWARE STANDARD 14.31: Juvenile Intake Services (C14.1-14.5, R8.2, K)

*The Intake Department of Family Court should have the authority and responsibility to (1) dismiss a complaint; (2) divert a child out of the Juvenile Justice System; (3) provide for informal adjustments; (4) provide for informal probation; and (5) provide for consent decrees.*

DELAWARE SITUATION:

Family Court Rules 80, 90, and 100 authorize the Intake Department to perform all of the functions mentioned in the standard except the provision of consent decrees.

IMPLEMENTATION:

This standard can be fully implemented with the passage of legislation mandating the use of consent decrees by Family Court. No costs are associated with implementation.

DELAWARE STANDARD 14.32: Alternatives to Pre-Trial Detention for Juveniles (L3.1-3.8, R8.3, K)

*The State of Delaware should seek enabling legislation to develop, authorize, and encourage the use of a variety of alternatives to the detention of juveniles awaiting trial. All alternatives should be exhausted before a juvenile is detained.*

DELAWARE SITUATION:

Family Court Rule 60 and the Intake Department procedure (Family Court Rule 80) implement this standard.

IMPLEMENTATION:

No further implementation is necessary.

DELAWARE STANDARD 14.33: Procedures Relating to Pre-Trial Release and Detention Decisions for Juveniles (R4.3-4.5, R4.7-4.8)

*The State of Delaware should develop procedures governing pre-trial release and detention decisions. Every effort should be made to notify the parents of juveniles. The same rights as an adult should be accorded a juvenile in the pre-trial process.*

DELAWARE SITUATION:

The procedures governing the arrest, detention, or pre-trial release of a child are mandated in Family Court Rules 50, 60, 80, and 90.

Family Court Rule 320 sets forth the constitutional rights in a child delinquency criminal proceeding. Family Court Rule 90 sets forth the child's rights in the intake interview process. Family Court Rule 50(c) states the procedure for notification of the parents/guardian.

IMPLEMENTATION:

Implementation of this standard is complete.

DELAWARE STANDARD 14.34: Programs for Juvenile Pre-Trial Detainees  
(R4.7)

*Family Court and the Bureau of Juvenile Correction should implement educational, vocational, and recreational programs; specialized treatment programs; and counseling programs for the juvenile who is awaiting trial and his family. All participation should be voluntary and confidential.*

DELAWARE SITUATION:

Bridge House and Stevenson House provide counseling and educational services. Both facilities make use of community resources. There is no formal policy on voluntary participation.

IMPLEMENTATION:

This standard can be fully implemented through policy review and revision. Start-up costs are associated with implementation.

DELAWARE STANDARD 14.35: Rights of Pre-Trial Juvenile Detainees  
(R4.8)

*Family Court and the Department of Correction should develop policies and procedures to insure that the rights of juveniles detained while awaiting trial are observed. Modification of the juvenile's rights should be related only to the conditions of confinement.*

DELAWARE SITUATION:

The Bureau of Juvenile Correction Division Policy Number 403, Due Process is applicable to juveniles in detention custody. The detention procedures vary depending upon the facility.

IMPLEMENTATION:

This standard can be implemented through policy review and revision. Costs associated with implementation are for training.

DELAWARE STANDARD 14.36: Juveniles Incompetent to Stand Trial  
(C14.1-14.5, R4.7, K)

*The State of Delaware should develop procedures and seek enabling legislation, if needed, governing juveniles awaiting trial who are alleged to be, or adjudicated, incompetent to stand trial. A due process procedure to determine competency, use of both outpatient and inpatient treatment, and time limits on length of treatment should be included in this process.*

DELAWARE SITUATION:

Family Court Rule 140 provides for examinations for the purpose of determining competency to participate in any proceedings. In Family Court procedures, the judge has the discretion to rule on the issue of the child's culpability.

IMPLEMENTATION:

This standard can be fully implemented by reviewing and revising present court rules. No costs are associated with implementation.

DELAWARE STANDARD 14.37: Expediting Juvenile Trials (C14.1-14.5, R4.10)

*The State of Delaware should enact legislation and develop policies to expedite trials and minimize pre-trial detention.*

DELAWARE SITUATION:

Family Court Rule 60 (c) requires a report to the court after 30 initial days of detention and a further report every 15 days of detention thereafter. The intent of this rule is to minimize detention. There are no set laws and/or policies on a time limit for the interval between the initial complaint and the adjudication hearing.

IMPLEMENTATION:

This standard can be implemented through legislation and subsequent administrative reorganization. Costs associated with the implementation of this standard have not been estimated.

SUBCHAPTER E

JUVENILE COMMUNITY SERVICES

DELAWARE STANDARD 14.38: Organization of Juvenile Field Services  
(L3.1-3.8, R10.1, K)

*The State of Delaware should consolidate all juvenile services, including probation, aftercare, and prevention services in the correctional system. The delivery of services should be decentralized at the operational level.*

DELAWARE SITUATION:

Probation services are presently under Family Court, Title 10, Section 911, Delaware Annotated Code. Prevention and aftercare services are provided by the Bureau of Juvenile Correction's Community-Based Unit which is a decentralized system.

IMPLEMENTATION:

The standard can be implemented by legislation which would remove probation services from Family Court and place those services under the Bureau of Juvenile Correction. Start-up costs will be associated with implementation.

DELAWARE STANDARD 14.39: Services to Juveniles (R10.2)

*The juvenile worker's primary function should be as a community resource manager for juveniles on probation or aftercare.*

DELAWARE SITUATION:

The primary function currently is that of traditional counselor.

IMPLEMENTATION:

This standard can be implemented through reorganization and training. Start-up costs will be associated with implementation.

DELAWARE STANDARD 14.40: Probation and Release on Recognizance Programs for Juvenile (R8.2, R10.5)

*Each probation officer serving a community should, in cooperation with the court, develop additional staff and procedures to investigate arrested juvenile defendants for possible release on recognizance (ROR) while awaiting trial, thus avoiding unnecessary use of detention.*

DELAWARE SITUATION:

Investigations for ROR are presently done by Family Court Intake Staff in accordance with Family Court Rules 60 and 80.

IMPLEMENTATION:

This standard can be implemented administratively if probation is legislatively placed under the Bureau of Juvenile Correction.

DELAWARE STANDARD 14.41: Juvenile Misdemeanant Probation (R10.5)

*Probation service should be available to misdemeanants to the same extent as to persons accused of felonies and should be tailored to the individual's needs.*

DELAWARE SITUATION:

Current probation services are in accordance with this standard.

IMPLEMENTATION:

The standard is fully implemented.

DELAWARE STANDARD 14.42: Aftercare Hearing for Juveniles (R12.3)

*The Bureau of Juvenile Correction should develop policies for aftercare hearings that include full personal participation by the juvenile concerned; procedural guidelines to insure thorough consideration of every case; and prompt decisions and provision for accurate records of deliberations and conclusions.*

DELAWARE SITUATION:

This standard is being implemented by Division Policy on Aftercare Procedures, Policy Numbers 800-804 and Division Policy Number 403, Due Process, Sections 102 and 112. A thorough after-care procedure manual is being written and is schedule for completion by September 1, 1976.

IMPLEMENTATION:

This standard has been implemented.

DELAWARE STANDARD 14.43: Revocation Hearings for Juvenile Aftercare (R12.4)

*The Bureau of Juvenile Correction should implement a system of revocation procedures to permit prompt confinement of parolees exhibiting behavior that poses a serious threat to others. It should provide careful controls, methods of fact-finding, and possible alternatives to keep as many offenders as possible in the community. Return to the institution should be used as a last resort even when a factual basis for revocation can be demonstrated.*

DELAWARE SITUATION:

The Bureau of Juvenile Correction, Division Policy Number 403, Due Process, Sections 102 and 112, fulfills the standard's recommen-

ation for a "preliminary hearing". The Division Policy Numbers 800-804 further delineate juvenile aftercare procedures which are in line with the standard.

The only recommendation not in operation is that which delegates to Family Court the sole authority to issue warrants to arrest and hold alleged aftercare violators. Title 10, Section 934, Delaware Annotated Code, mandates this authority "to any judge of any state or municipal court or any official designated for such purpose...."

#### IMPLEMENTATION:

The repeal of Title 10, Section 934, Delaware Annotated Code is the initial action needed for full implementation of this standard. If Family Court were mandated sole authority to issue warrants and detain juveniles, the court would need an increased budget allocation to provide 24-hour, seven-day-a-week availability. Actual costs cannot be estimated at this time.

#### DELAWARE STANDARD 14.44: Measures of Control for Juveniles (R12.7)

*The State of Delaware should reduce aftercare rules to a minimum retaining only those critical to the individual case and those needed to enforce the conditions established.*

#### DELAWARE SITUATION:

Present practices of the aftercare unit are in compliance with this standard.

#### IMPLEMENTATION:

The standard can be fully implemented by formal policy adoption.

CHAPTER 15  
ACCREDITATION

DELAWARE STANDARD 15.1: Accreditation Program (R2.1-2.18, R11.3)

The Department of Correction should develop, for approval of the General Assembly, State standards and operational procedures covering the following areas:

1. Inspection and evaluation should cover:
  - a. Administrative area, record-keeping procedures;
  - b. Organizational structure, the policy and programs;
  - c. Health and medical services;
  - d. Food service;
  - e. Offender housing, including provision of privacy and personal space, minimization of noise, reduction of sensory deprivation, reduction in size of inmate activity spaces to facilitate constructive inmate/staff relationships, and provision of adequate utility services;
  - f. Offender employment;
  - g. Staff recruitment and training, staff performance evaluations;
  - h. Security measures;
  - i. Offender education and work programs;
  - j. Offender recreation programs;
  - k. Offender counseling programs;
  - l. Offender leisure activities; and
  - m. Respect for rights of offenders, as delineated in this Chapter.
2. The General Assembly should either exercise the authority it now has or empower a designated agency with the authority to require those in charge of facilities to take necessary measures to bring the facility up to standards.
  - a. To insure competent evaluation, inspection, and enforcement of compliance with the inspecting body's evaluation and recommendations, a body or board which is independent of other State agencies should be designated and empowered with appropriate authority.

- b. One (1) alternative might be a group of persons composed of competent private evaluators such as the Delaware Agency to Reduce Crime, Delaware Council on Crime and Justice, the Advisory Committee for Corrections, National Council on Crime and Delinquency, or the American Civil Liberties Union. All meet the criteria.
  - c. The American Correctional Association (ACA) is developing an accreditation service which it will sponsor for one (1) year; then it will become independent with LEAA funding for the first five (5) years.
3. Should the General Assembly fail to empower a designated agency with the authority to actually condemn a facility, or should it itself fail to act, then recourse may be sought in the State and/or Federal courts.
  4. Once a facility is condemned, it should be unlawful to commit or confine any persons to it. Prisoners should be relocated to facilities that meet established standards until a new or renovated facility is available. Provisions should be made for redistribution of offenders and payment of expenses for relocated prisoners by the detaining jurisdiction.

#### DELAWARE SITUATION:

This standard is partially implemented only in regard to the physical conditions of facilities as enforced by the State Board of Health (Title 16, Section 12.3, Delaware Annotated Code). The standard is not enforced in regard to correctional programming. During the Spring of 1976, the Federal District Court ordered that the conditions at Sussex Correctional Institution be improved and facilities renovated.

#### IMPLEMENTATION:

The recommendations in this standard require new legislation mandating the evaluation of the correctional system.

The costs for the implementation of this standard would largely be composed of fees for outside evaluators. The estimated cost of the American Correctional Association's evaluation service is \$20,000 to \$50,000. Accreditation is renewed every four (4) years.

DELAWARE STANDARD 15.2 State Correctional Facility Programming  
(R9.8, R11.1-11.10)

*The Bureau of Adult Correction should establish a team program-planning process which would develop comprehensive educational and vocational programs. These programs should be provided by appropriate State agencies.*

DELAWARE SITUATION:

The current prison industry study group is an example of the planning process recommended in the standard.

IMPLEMENTATION:

This standard can be implemented administratively by the Department of Correction in cooperation with the Departments of Public Instruction and Labor, educational institutions, and various other State and local agencies (i.e., Delaware Advisory Council on Career and Vocational Education).

DELAWARE STANDARD 15.3: Comprehensive Classification Systems (R6.2-6.3)

*The Department of Correction should revise its classification system. There should be a comprehensive system (institutional and community-based) which is equitably objective, yet flexible enough to allow for individualization.*

DELAWARE SITUATION:

Senate Bill 724, signed August 5, 1976, amends Title 11, Delaware Annotated Code by adding Section 6528 which established two (2) separate classification systems. The Institutional Classification Board governs internal matters. The Release Classification Board classified inmates seeking release from the institution. Senate Bill 725 amends Title 11, Delaware Annotated Code by substituting a new Section 6538 which provides the Release Classification Board with furlough instructions.

Classification teams function in each unit. They consist of a counselor, teacher, and the lieutenant of the unit. The team is the first line in the classification process throughout the institution. It functions in relationship to the Institutional Classification Committee. Classification is a continuous process which is designed to respond to the offender's needs and progress. Through classification, the offender's program will change, sometimes at the offender's request and sometimes by the initiative of the Institutional Classification Committee. Classification is the means of assignment to all work details, school programs, therapy programs, drug treatment programs (Alcoholics Anonymous), building transfers (except for administrative transfers), and work release. All requests for furloughs are also handled through the classification process (DCC Inmate Reference Manual).

The preceding classification system is only used at the Delaware Correctional Center (DCC). The other institutions use modified systems, depending upon staff availability. No other institution has written policy and/or procedures on the classification. There is no classification system for community-based programs.

#### Juvenile Corrections:

At Ferris School for Boys, a "contract" system is used as a form of classification. These procedures are outlined in the Student Handbook, Security/Treatment Program, Ferris School for Boys (Second Revision, 1/29/75). At Woods-Haven Cruse, a modified version of this policy is used.

Policy Number 403 of the Division of Juvenile Correction (11/1/74), Minimum Standards for Disciplinary and Due Process

Decision Making, established that the juvenile has a right to appeal a transfer decision and sets forth procedures.

#### IMPLEMENTATION:

This standard can be implemented administratively with the development of policy revision, staff training, and additional staffing for adult corrections.

The minimum cost estimate for the implementation of this standard, excluding training costs, is \$35,000 per year for classification officers for the Bureau of Adult Correction.

#### DELAWARE STANDARD 15.4: Procedures for Nondisciplinary Changes of Status (R2.8, R2.12-2.14, R6.1-6.3)

*The Department of Correction should issue written rules and regulations to determine and change offender status. These regulations should cover changes in classification, transfers, and major decisions involving program participation within the same correctional facility. Such rules and regulations should:*

1. *Specify classifications criteria, the rights and duties of persons in each class, and criteria whereby such assignments are made;*
2. *Specify the frequency of status reviews or events which might prompt review;*
3. *Provide notification to offenders if, and when, their status is being reviewed; and*
4. *Provide an opportunity for the offender to participate in a fair hearing on decisions affecting the offender's program.*

#### DELAWARE SITUATION:

Title 11, Sections 6529-6531, Delaware Annotated Code mandates the establishment of classification committees and their rules and regulations.

The Department of Correction is currently working on a complete revision of the Inmate Reference Manual. The Commissioner of the Department of Correction has approved the promulgation of a set of standard departmental policies through the new manual.

The rules and regulations as stated in current inmate reference manuals are not in full compliance with the standard's guidelines.

#### IMPLEMENTATION:

This standard can be implemented at minimal additional expense with the full development of a comprehensive classification system. Both administrative and legislative changes are necessary.

### SUBCHAPTER A

#### RIGHTS

#### DELAWARE STANDARD 15.5: Access to Courts, Legal Services, and Materials (R2.1-2.3, R2.18)

*The Department of Correction should develop and implement policies to insure the right of persons under correctional supervision access to the courts for the purpose of (1) challenging the legality of their conviction or confinement; (2) seeking redress for illegal conditions or treatment while incarcerated or under correctional control; (3) pursuing remedies in connection with civil legal problems; and (4) asserting any other rights protected by constitutional or statutory provision or common law.*

*The State of Delaware should make available to incarcerated persons remedies which provide prompt resolution of suits, claims, and petitions. Where adequate remedies already exist, they should be available to offenders, including pre-trial detainees, on the same basis as to citizens generally.*

*The Department of Correction should develop and implement policies which fulfill the right of offenders to have access to legal assistance. Correctional authorities should facilitate access to such assistance and aid offenders in pursuing their legal rights. Governmental authority should furnish adequate legal representation and, where appropriate, lay representation to meet the needs of offenders who lack the financial resources to retain such assistance privately.*

*The proceedings or matters to which this recommendation applies include the following:*

- 1. Postconviction proceedings testing the legality of conviction or confinement;*
- 2. Proceedings challenging conditions or treatment under confinement or other correctional supervision;*
- 3. Probation revocation, parole, and revocation proceedings.*

4. *Disciplinary proceedings in a correctional facility that impose major penalties and deprivations; and*
5. *Proceedings or consultations in connection with civil legal problems relating to debts, marital status, property, or other personal affairs of the offender.*

*Access to legal services and materials appropriate to the kind of action or remedy being pursued should be provided as an integral element of the offender's right to access to the courts.*

#### DELAWARE SITUATION:

The Department of Correction through the Inmate Reference Manual for Delaware Correctional Center and Juvenile Due Process Policy No. 403 has established some formal policies and procedures on the offender's right to legal services. The Department of Correction is currently doing a complete revision of the inmate reference manuals. In practice, the large caseloads of the Office of the Public Defender and the Community Legal Aid Society hinder the prompt availability of legal services, especially for civil matters.

Delaware Correctional Center is the only institution which has formal procedures for access to legal materials. Some law books are available on all sites. The library is not equipped in accordance with Younger v. Gilmore, 404 U.S. 15 (1971).

#### IMPLEMENTATION:

This standard can be implemented through administrative action by the Department of Correction in cooperation with the Office of the Public Defender and Community Legal Aid Society (GLAS). Costs associated with the implementation of this standard have not been estimated.

#### DELAWARE STANDARD 15.6: Persons Incompetent to Stand Trial (R4.7)

*The State of Delaware should develop procedures which follow the Model Penal Code to govern persons awaiting trial who are alleged to be, or are adjudicated, incompetent to stand trial.*

#### DELAWARE SITUATION:

Title 11, Sections 401-475, Delaware Annotated Code sets forth the rule covering "Defenses to Criminal Liability." Title 11, Section 404, Delaware Annotated Code sets forth the procedure for "Confinement in State Hospital of persons too mentally ill to stand trial; requiring State to prove prima facie case in such circumstances; adjustment of sentences." This law is not in full compliance with the Model Penal Code.

#### IMPLEMENTATION:

This standard can be adopted through enabling legislation or court ruling. Current Supreme Court rulings on the matter comply with the guidelines of the standard. The Delaware Code, if revised in line with the Model Penal Code, would comply with the standard. No costs are associated with the implementation of this standard.

#### DELAWARE STANDARD 15.7: Expediting Criminal Trials (C4.10, R4.10, K)

*The State of Delaware should enact legislation, and each criminal justice agency should develop policies and procedures, to expedite criminal trials, thus minimizing pre-trial detention. Such legislation, policies, and procedures should include time limits in which a defendant must be brought to trial (not exceeding 60 days from the initial information).*

#### DELAWARE SITUATION:

A speedy trial (120 days from arrest to trial) has been directed by Chief Justice Daniel Herrmann. Substantial progress is being made.

Reference can be made to "A Comparative Study of the American Bar Association's Standards for Criminal Justice with Present Delaware Law" and the Courts Section of Criminal Justice Standards and Goals for the State of Delaware.

## IMPLEMENTATION:

This standard can be implemented by legislation and administrative reorganization. Implementation will mean a strengthening of the resources of the courts, the Attorney General's office, and the Public Defender's office.

There will be costs associated with the implementation. More study by the courts, the Department of Justice, and the Office of the Public Defender is necessary to determine these costs.

## DELAWARE STANDARD 15.8: Rights of Pre-Trial Detainees (C4.6-4.7, R4.8-4.9, K)

*The Department of Correction should develop policies to insure that the rights of persons detained while awaiting trial are observed.*

## DELAWARE SITUATION:

The Department of Correction has no specific policy or procedures to protect the rights of pre-trial detainees.

## IMPLEMENTATION:

This standard can be implemented administratively by the Department of Correction. Because of crowded pre-trial detention facilities, substantial administrative reorganization may be necessary. Costs are associated with the implementation of this standard, but no estimate is available without further study.

## DELAWARE STANDARD 15.9: Rules of Conduct (R2.11)

*Each institution within the Department of Correction should maintain an updated, published set of rules of conduct for offenders. Rules should be formulated in consultation with offenders and other interested parties and be approved by the Department of Correction. Rules should be:*

- 1. Designed to protect the interests of the facility or program to which they are addressed;*
- 2. The least drastic means of achieving that interest;*
- 3. Specific enough to give offenders adequate notice of what is expected of them;*

4. Accompanied by a statement of the range of sanctions that can be imposed for violations with sanctions being proportionate to the gravity of the rule and the severity of the violation; and
5. Nonduplicative of criminal law.

#### DELAWARE SITUATION:

Title 11, Section 6535; Delaware Annotated Code, mandates that the Department of Correction devise rules and regulations for the maintenance of discipline and for dealing with violations. The inmate reference manuals of the adult institutions and the student handbooks for the juvenile institutions fulfill the standard's guidelines, but distribution of these materials is limited.

#### IMPLEMENTATION:

This standard can be fully implemented administratively. Minor costs for printing and distribution of rules of conduct are associated with the implementation of this standard.

#### DELAWARE STANDARD 15.10: Disciplinary Procedures (R2.12)

The Department of Correction should institute and publish disciplinary procedures for each type of facility. Policy should cover both major and minor violations.

Minor conduct violations are those punishable by no more than a reprimand or loss of commissary, entertainment, or recreation privileges for not more than 24 hours. Rules governing minor violations should provide that:

1. Staff may impose the prescribed sanction after informing the offender of the nature of his misconduct and giving him the chance to explain or deny it;
2. If a report of the violation is placed in the offender's file, the offender should be so notified;
3. The offender be given the opportunity to request a review, by an impartial officer or board, of the the appropriateness of the staff action; and
4. Where the review indicates that the offender did not commit the violation, all reference to the incident be removed from the offender's file.

Major conduct violations are those punishable by more stringent sanctions than for minor violations, including, but not limited to, loss of time, transfer to segregation or solitary confinement, transfer to a higher level of institutional custody, or any other change in status which may tend to adversely affect an offender's time of release or discharge.

Rules governing major violations should require a fair and timely hearing, using due process, on the alleged violation.

#### DELAWARE SITUATION:

The rules for disciplinary procedures are stated in the inmate reference manuals, student handbooks, and Juvenile Corrections Division Policy Number 403. These rules and regulations are not in compliance with the standard in regard to differentiation of punishment between minor and major infractions.

#### IMPLEMENTATION:

This standard can be implemented administratively with a small additional expense for the publication and dissemination of disciplinary procedures.

#### DELAWARE STANDARD 15.11: Nondiscriminatory Treatment (R2.8)

The Department of Correction should develop policies assuring the right of offenders not to be subject to discriminatory treatment based on race, religion, nationality, sex, or political beliefs.

#### DELAWARE SITUATION:

The Department of Correction has no policies or procedures concerning nondiscriminatory treatment. Under present housing conditions, female prisoners are less advantaged than males.

#### IMPLEMENTATION:

This standard can be implemented administratively with no cost involved.

DELAWARE STANDARD 15.12: Grievance Procedure (R2.14, R2.18)

The Department of Correction should develop grievance procedures covering the institution, investigation, hearing, and disposition of grievance complaints. The procedure should provide for:

1. Processing and disposing grievance complaints on a timely basis;
2. Establishing an independent authority within the Department of Correction, not involved in day-to-day administration management, to investigate and hear grievances; and
3. Instituting corrective measures complying with the findings and recommendations of the grievance authority.

DELAWARE SITUATION:

A formal procedure for inmate grievances in accordance with this standard does not exist. Informal mechanisms are relied upon. There is a grievance procedure for employees as established by the Merit System Rules and Regulations.

IMPLEMENTATION:

This standard calls for the creation of an "ombudsman" type position for the correctional system. The establishment of such a public position would require legislation. No cost estimates are available without further study.

DELAWARE STANDARD 15.13: Remedies for Violation of an Offender's Rights (R2.18)

The Department of Correction should adopt policies and, where applicable, seek necessary legislation to insure proper administrative and judicial remedies for redressing violations of offender's rights as enumerated in this Chapter.

DELAWARE SITUATION:

As established by law and court precedent, judicial remedies for addressing violations of offenders' rights exist and are in full operation, thus providing partial compliance with this standard.



**CONTINUED**

**2 OF 3**

Present administrative and procedural remedies exist only through the Warden or the Prisoners' Action Committee (PAC). These do not meet the full intent of the standard.

#### IMPLEMENTATION:

This standard can be implemented through administrative, judicial, and legislative action such as the formulation of new policies and procedures within the Department of Correction, the development of an "ombudsman" function, and the passage of required legislation. There may be some costs associated with the establishment of an "ombudsman" function, but an estimate is unavailable.

#### DELAWARE STANDARD 15.14: Rehabilitation (R2.9, R6.1-6.3, R11.1-11.10, K)

*The Department of Correction should develop programs to fulfill the offender's rights to rehabilitative opportunities. The Department should take affirmative action to provide educational, vocational, psychological, and other rehabilitative services and opportunities. Whenever possible, social service programs already available to the general public should be utilized.*

*No offenders should be required or coerced to participate in rehabilitation programs.*

*The Department of Correction should regularly advise the courts as to the extent and availability of rehabilitative services. The courts can then make proper sentencing decisions and realistic evaluations of treatment alternatives.*

#### DELAWARE SITUATION:

Title 11, Sections 6531 and 6504, Delaware Annotated Code mandates the Department of Correction to provide the opportunity of rehabilitation. The classification system is a mechanism used to achieve this purpose. Opportunity is dependent upon the availability of funding and outside resources. Presently, rehabilitation services are very limited.

There is no structure liaison between the Department of Correction and the courts.

IMPLEMENTATION:

This standard can be achieved administratively and legislatively. It depends on the implementation of the correctional standards on programming, services, and personnel. Cost estimates are not available.

DELAWARE STANDARD 15.15: Protection Against Personal Abuse (R2.4)

*The Department of Correction should establish policies which insure the right of offenders to be free from personal abuse by the correctional staff or other offenders. The term personal abuse includes corporal punishment, physical force, extensive solitary confinement, deprivation of physical materials, negligence, or infliction of mental distress. The policies to be instituted to protect against personal abuse should include (1) staff evaluation; (2) classification and supervision of the violence-prone offender; and (3) general supervision.*

DELAWARE SITUATION:

The policy recommendations in this standard are partially in effect through the institutional inmate manuals and Bureau of Juvenile Correction Policy Numbers 400-499. The policy manual revision includes a new section dealing with personal abuse. However, overcrowding and lack of staff training has made this policy difficult to achieve.

IMPLEMENTATION:

This standard can be implemented by policy review and training.

DELAWARE STANDARD 15.16: Retention and Restoration of Rights (R2.10, R16.3, R16.17)

*Statutes depriving convicted persons of civil rights should be amended to provide, upon release, the restoration of any rights which were deprived by reason of conviction and/or incarceration.*

### DELAWARE SITUATION:

Persons convicted of felonies are deprived by constitutional provision, Delaware Constitution, Article V, Section 2, of the right to vote. Title 15, Section 1701, Delaware Annotated Code further mandates the conditions of loss of suffrage. Articles II and III of the Delaware Constitution exclude convicted persons from holding many public offices.

The Home Rule Charter does not exclude local municipalities passing ordinances which institute criminal registration, therefore many larger municipalities have done so. Delaware laws establishing various commissions and regulatory boards allow these bodies to establish rules which could prohibit the issuance of a license to convicted persons. An example of this type law is Title 4, Section 543, Delaware Annotated Code which prohibits a convicted felon from holding a liquor license. Many individual commissions exclude convicted persons by defining the statutory requirements for a license. These include being of good moral character, having committed no serious crimes, or having no criminal convictions. For example, Racing Commission Rule 4 (1968) prohibits a person convicted of a crime from being an owner, trainer, or jockey.

### IMPLEMENTATION:

This standard can be implemented legislatively with no costs involved.

### DELAWARE STANDARD 15.17: Searches and Seizures (R2.7)

*The Department of Correction should develop and publish policies governing search and seizure that insure the rights of persons under its authority.*

Unless specifically authorized by the court as a condition of release, persons supervised by correctional authorities in the community should be subject to the same rules governing search and seizure that are applicable to the general public.

DELAWARE SITUATION:

Title 11, Section 6560, Delaware Annotated Code, authorizes correctional personnel to perform search and seizure upon persons incarcerated in the Department of Correction facilities. The Department of Correction has no formal policy and/or procedures.

IMPLEMENTATION:

This standard can be implemented administratively with no costs involved. This policy is currently being drafted for inclusion in the new inmate reference manuals.

DELAWARE STANDARD 15.18: Access to Public (R2.15, R2.17)

The Department of Correction should develop policies that fulfill the right of offenders to communicate with the public by mail, personal visitation, and the communications media.

Mail: Inmates should have the right to correspond with persons or organizations and to send and receive letters, packages, books, periodicals, and other material that can lawfully be mailed.

Visitation: Inmates should have the right to communicate in person with individuals of their own choosing.

Media: Except in emergencies (i.e., institutional disorders), offenders should be allowed to present their views through the communications media. Correctional authorities should encourage and facilitate the flow of information between the media and inmates.

DELAWARE SITUATION:

The Bureau of Juvenile Correction's Division Policy Number 403 outlines the juvenile's right for access to the public. This policy is in compliance with the standard. The student handbooks outline

the corresponding procedures.

There is no overall policy for adult institutions. Each institution has procedures stated in the inmate reference manuals. These procedures are not in compliance with the standard.

The Federal Court-ordered agreement for Sussex Correctional Institution includes new procedures concerning inmate access to the public. These rules, which comply with the standard, will be adopted for all Delaware institutions.

#### IMPLEMENTATION:

The changes in adult policy can be accomplished administratively with minor expense.

#### DELAWARE STANDARD 15.19: Healthful Surroundings (R2.5, R11.2-11.3)

*The Department of Correction should insure the right of each person in its custody to a healthful place in which to live.*

*Each inmate should be provided with:*

- 1. Adequate living space and protection necessary for personal safety;*
- 2. Appropriate heating and lighting conditions;*
- 3. Clean and decent facilities for the maintenance of personal hygiene; and*
- 4. Adequate recreational opportunities, facilities, and equipment.*

*Department of Correction facilities should be subject to and meet applicable State and local statutes and ordinances pertaining to health and safety. Facilities should be inspected annually by independent, qualified State and local building, health, and safety inspectors.*

#### DELAWARE SITUATION:

Overcrowding and underfunding have prevented the full implementation of this standard.

## IMPLEMENTATION:

This standard can be implemented by statute and administrative ruling with respect to institutional reorganization, renovation, and construction. The amount of work entailed to achieve compliance varies with each institution. Costs are associated with the implementation of this standard; the only estimate presently available is \$1.5 million for renovation of the Sussex Correctional Institution (SCI).

The accreditation service(s) (Standard 15.1) would serve as the monitoring agency for the implementation of this standard.

### DELAWARE SITUATION 15.20: Free Expression and Association (R2.15, R2.17)

*The Department of Correction should develop policies to assure individual offenders the exercise of their constitutional rights of free expression and association subject to the same limitations as the general public. Limiting regulations should be justified by a compelling State interest with as little interference with an offender's rights as possible.*

*Justification for limiting an offender's right of expression or association would include regulations to maintain order; to protect other offenders, correctional staff, or other persons from violence; or to counter a clear threat of violence. The existence of these problems should be determined in light of all the circumstances, including the nature of the correctional program or institution to which the offender is assigned.*

*The following factors would not constitute sufficient justification for an interference with an offender's rights unless present in a situation which constituted a clear threat to personal or institutional security:*

- 1. Protection of the correctional agency or its staff from criticism, whether or not justified;*
- 2. Protection of offenders from unpopular ideas;*
- 3. Protection of offenders from views correctional officials deem not conducive to rehabilitation or other correctional treatment;*
- 4. Administrative inconvenience; and*
- 5. Administrative costs except where unreasonable and disproportionate to that expended on other offenders for similar purposes.*

*Correctional authorities should encourage and facilitate the exercise of the right of expression and association by providing appropriate opportunities and facilities.*

## DELAWARE SITUATION:

The inmate reference manuals delineate the regulations limiting an offender's right of expression and association. These procedures need to be reviewed and formal policy in line with the standard needs to be adopted.

## IMPLEMENTATION:

This standard can be implemented administratively with no additional cost.

## DELAWARE STANDARD 15.21: Exercise of Religious Beliefs and Practices (R2.16, R11.7)

*The Department of Correction should develop policies that will fulfill the right of offenders to exercise their own religious beliefs. These policies and procedures should facilitate the practice of personal beliefs to the maximum possible extent.*

*The Department of Correction should give equal status and protection to all religious, traditional or unorthodox. In determining whether practices are religiously motivated, the following factors should be considered:*

1. *Substantial literature supporting the practice as related to religious principle;*
2. *Formal, organized worship of shared belief that is a recognizable and cohesive group supporting the practice;*
3. *Loose and informal association of persons who share common ethical, moral, or intellectual views supporting the practice; and*
4. *The belief is deeply and sincerely held by the offender.*

*The following factors should not be considered as indicating a lack of religious support for the practice in question:*

1. *The belief is held by a small number of individuals;*
2. *The belief is of recent origin;*
3. *The belief is not based on the concept of a Supreme Being or its equivalent; and*
4. *The belief is unpopular or controversial.*

*In determining whether practices are religiously motivated, the Department of Correction should allow the inmate to present evidence of religious foundations to the official making the determination.*

*The Department of Correction should not proselytize persons under its supervision or permit others to do so without the consent of the person concerned. Reasonable opportunity and access should be provided to inmates requesting information about the activities of any religion with which they may not be actively affiliated.*

#### DELAWARE SITUATION:

The Department of Correction has no formal policy on freedom of religious policy. The Inmate Reference Manual, presently under revision, will specifically address this area. Religious programs are available at the Delaware Correction Center (DCC). The Women's Correctional Institution (WCI) and Sussex Correctional Institute (SCI) are dependent upon the religious community to provide services.

The Bureau of Juvenile Correction's Division Policy Number 403 established the juveniles' right to exercise religious beliefs and practices.

#### IMPLEMENTATION:

This standard can be achieved administratively by the Adult Bureau with the cooperation and assistance of the community's religious institutions. No costs are associated with implementation.

### SUBCHAPTER B

### PROGRAMMING

#### DELAWARE STANDARD 15.22: Women in Institutions (R11.6, R14.3)

*The Department of Correction should pursue all means of acquiring improved housing and programming for women in order to make such programming complete and relevant to the needs of women.*

DELAWARE SITUATION:

With the planning of a new women's institution, program planning will be included.

IMPLEMENTATION:

This standard can be implemented by special women's program development. Associated costs are unestimated at this time.

DELAWARE STANDARD 15.23: Medical Care (R2.6, R11.5, K)

*The Department of Correction should insure the right of offenders to medical care of comparable quality and availability to that of the general public. Care should include:*

1. *Prompt examination by a physician upon commitment to a correctional facility;*
2. *Medical services by trained persons under the supervision of a licensed physician;*
3. *Emergency medical treatment on a 24-hour basis; and*
4. *Access to hospital facilities.*

*Medical furloughs or purchase-of-services should be utilized to provide for the needs of special medical problems.*

*An offender's need for care should be determined by trained medical personnel and not by correctional personnel. Correctional personnel should not be allowed to inhibit the inmate's access to medical personnel or medical treatment. Medication should be administered under strict medical supervision. Complete and accurate medical records should be maintained under supervision of the physician in charge.*

DELAWARE SITUATION:

Title 11, Section 6535, Delaware Annotated Code mandates medical care for inmates. The inmate manuals (DCC and SCI) have rules for the inmates' receipt of medical care. The Bureau of Juvenile Correction Policy Numbers 200-299 set forth the guidelines for medical treatment of juveniles in their custody. Even with the present

policies, inmates do not receive medical care at the level recommended in the standard because of the lack of qualified medical personnel.

IMPLEMENTATION:

This standard can be implemented administratively by the Department of Correction with the cooperation of the Department of Health and Social Services and community hospitals.

Unestimated costs associated with the implementation of this standard will include at least the addition of a licensed physician in the Department of Correction, and other full-time or part-time medical personnel.

DELAWARE STANDARD 15.24: Counseling Programs (R6.1-6.3, R11.9, K)

*Each institution should develop ongoing counseling programs intended to provide a social/emotional climate conducive to behavioral change and interpersonal growth. The counseling programs offered should include various methodologies.*

DELAWARE SITUATION:

The adult institutions have an approximate ratio of one (1) trained counselor to every 80 inmates. The only comprehensive counseling program is the Guided Group Interaction Program at the Delaware Correctional Center.

The juvenile institutions provide both individual and group counseling services.

IMPLEMENTATION:

This standard can be implemented administratively by the Department of Correction through manpower development and training.

The costs associated with the implementation of this standard are personnel expenditures which cannot be estimated without further study.

DELAWARE STANDARD 15.25: Educational and Vocational Training (R11.9-11.10)

*Each juvenile and adult institution should re-examine its educational and vocational training programs to insure that they meet standards for individualizing education and training. These programs should be geared to the reintegration of the offender into the community.*

*Each institution should have a comprehensive, continuous educational program; have prevocational and vocational training programs to enhance marketable skills; and be designed to maximize the benefits and the resources available.*

DELAWARE SITUATION:

Adult Corrections:

Delaware Correctional Center has the only educational and vocational programming available to inmates. The small number of programs is not available or applicable to the total population. The only available terminating educational program is the G.E.D. (General Equivalency Diploma) program.

Juvenile Corrections:

All juvenile institutions provide an individualized secondary educational program as provided by the Department of Public Instruction. No vocational training programs are in existence at the present time.

IMPLEMENTATION:

The recommendations in this standard can be implemented administratively by the Department of Correction through program planning, staffing, and training.

The costs associated with this standard are estimated at \$350,000 for personnel and equipment for programs at all adult and juvenile institutions.

DELAWARE STANDARD 15.26: Prison Labor and Industries (R11.10, R16.13, K)

*The Department of Correction should reorganize industrial and labor programs to support the reintegrative purpose of correctional institutions. Real effort shall be made toward obtaining jobs for inmates involved in the industrial and labor programs.*

*Any prison industrial or labor programs should be integrated with a training program.*

DELAWARE SITUATION:

The only labor programs are institutional maintenance jobs with the exception of the furniture repair shop and the farm at Sussex Correctional Institution. Neither of these programs is vocationally oriented.

IMPLEMENTATION:

A prison industry feasibility study is being conducted by the Department of Correction to develop an implementation method. Costs cannot be estimated at this time.

DELAWARE STANDARD 15.27: Legislative Requirements for Prison Industries (R11.10, R16.13)

*The State of Delaware should amend its statutory authorization for these programs so that they do not prohibit:*

- 1. Specific types of industrial activity from being carried on by a correctional institution;*
- 2. The sale of prison industries products on the open market;*
- 3. The transport or sale of products produced by prisoners;*
- 4. The employment of inmates by private enterprise at full market wages and comparable working conditions; and*
- 5. The payment of full market wages to offenders working in State-operated prison industries.*

DELAWARE SITUATION:

Title 11, Section 6532, Delaware Annotated Code allows inmates to work in a prison industry and specifies that products of inmate labor and services may be sold to public/governmental agencies or as determined by the Department. The Department of Correction is given the authority to set the inmates wages (Title 11, Sections 6532 and 6534, Delaware Annotated Code).

IMPLEMENTATION:

This standard is in effect.

DELAWARE STANDARD 15.28: Religious Programs (R2.15-2.16, R11.7)

*Each institution should adopt policies to insure the development of a full range of religious programs.*

DELAWARE SITUATION:

The Delaware Correctional Center has stated policies and procedures, Inmate Reference Manual, for the availability of religious programs to inmates and the presence of a full-time chaplain. All the other institutions are dependent upon the volunteer services of the religious community.

IMPLEMENTATION:

This standard can be implemented administratively by the Department of Correction with the support of the religious community in the State. There is no substantial cost associated with the implementation of this standard.

DELAWARE STANDARD 15.29: Recreation Programs (R11.8)

*Each institution should develop and implement policies for the provision of recreation activities as an important resource for changing behavior patterns of offenders.*

DELAWARE SITUATION:

All adult institutions are presently limited in their recreational resources. Ferris School and Woods Haven-Kruse School, the juvenile centers, provide adequate recreational programs and have policy on such programming as stated in the Student Handbook.

IMPLEMENTATION:

This standard can be implemented by administrative action. The cost for implementation in the adult correctional system is unestimated.

## CHAPTER 16

### RESEARCH AND PLANNING

DELAWARE STANDARD 16.1: Research, Planning, and Information Systems for the Correctional System (R15.1-15.5, R16.1-16.2, R16.4)

The Correctional system and all planning agencies in the State of Delaware should immediately develop the capability for total system planning. A data information system to facilitate planning and research for evaluation and developmental purposes should be included.

1. The State of Delaware should coordinate the development of information systems and make maximum use of collected data in support of criminal justice management by:
  - a. Establishing a criminal justice information planning and analysis unit to coordinate the development of an integrated network of information systems in the State. This should satisfy information needs of management decision-making for all State and local criminal justice agencies as well as established Federal requirements for information.
  - b. Preparing a master plan for the development of an integrated network of criminal justice information systems (including data for statistical purposes) which specifies organizational roles and timetables and makes provisions for continual review and refinement.
  - c. Providing technical assistance and training to all jurisdictional levels and agencies in data collection methods, system concept development, and related areas.
  - d. Arranging for system audit and inspection to insure the maintenance of maximum quality in each operating system.
2. Every component agency of the Criminal Justice System (police, courts, corrections) should be served by an information system which supports its intra-agency needs. The component information system should:
  - a. Provide the rationale for the internal allocation of personnel and other resources of the agency.
  - b. Provide a rational basis for scheduling of events, cases, and transactions within the agency.
  - c. Provide the agency administrator with clear indications of changes in workload and workload composition as well as provide the means of distinguishing between short-term variations (e.g., seasonal variations) and long-term trends.

- d. Provide data required to interface with other systems as appropriate as well as retain only that data required for its own specific purposes.
  - e. Provide the interface between the Local Criminal Justice Information System and individual users within its own agency. This interface provision should include telecommunications facilities as necessary.
  - f. Create and provide access to files needed by its users that are not provided by the State or local criminal justice information systems with which it is interfaced.
  - g. Support the conduct of research and program evaluation to serve agency managers.
3. A corrections information system specifically must satisfy the following requirements:
- a. The information/statistics functions of offender accounting, administrative decision-making, ongoing research, and rapid response to questions should be supported.
  - b. The information now used or needed by correctional personnel at each decision point in the corrections system should be ascertained before the information system is designed.
  - c. The requirements of other criminal justice information systems for corrections data should be considered in the data base design. Interface between the corrections system and other criminal justice information systems should be developed.
  - d. The plan for developing a corrections information system should consider not only present data needs but also be flexible enough to satisfy future requirements.
4. The correctional system and planning agencies in the State of Delaware should undertake planning for community corrections based on a total system concept that encompasses the full range of offender's needs and the overall goal of crime reduction. While the actual methodology may vary, total system planning for a particular area should include the following concepts:
- a. A problem definition phase, including initial demarcation of the specific service area, as determined by the scope of the problem to be addressed. The definition phase results in a preliminary statement of the correctional problem.
  - b. Data survey and analysis designed to obtain comprehensive information on population trends and demography; judicial practices; offender profiles; service area resources; geographic and physical characteristics; and political and governmental composition. Such information is needed to assess service area needs and capabilities as well as to determine priorities.

- c. A program linkage phase involving examination of various ways to meet the problems identified. The linkages should emphasize service area resources that can be used to provide community-based correctional programs by program linkage that will have significant implications for a service area's detention capacity and program requirements.
  - d. A definition and description of the correctional delivery system for the service area developed on the basis of results of the previous phases. Facility and non-facility program requirements should be included.
5. All planning efforts should be made in the context of the master plan of the statewide correctional planning body.

#### DELAWARE SITUATION:

The Department of Correction, including the two Bureaus, maintains research and planning capabilities at present. To date, the Department of Correction has only an off-line data system but is scheduled to go on-line with CLUES (Criminal Law Uniform Enforcement System) within a year.

#### IMPLEMENTATION:

This standard can be implemented administratively through policy and procedure development. The CLUES Project will implement all recommendations concerning the on-line information system.

#### DELAWARE STANDARD 16.2: Staffing Correctional Research and Information Systems (R15.2)

*The Department of Correction should be assigned a Management Analyst to supervise the information system.*

#### DELAWARE SITUATION:

Under the CLUES grant, the Department of Correction has been allocated a Management Analyst position. This position has been filled.

IMPLEMENTATION:

This standard has been implemented. The CLUES grant covers the cost of implementation.

DELAWARE STANDARD 16.3: Evaluating the Performance of the Correctional System (R15.5, S6.2-6.3, S6.5-6.7)

*The Department of Correction should begin to make performance measures on two (2) evaluative levels - overall performance or system reviews as measured by recidivism, and program reviews that emphasize measurement of more immediate program goal achievement. These evaluations should be used for the purpose of re-allocation of correctional resources.*

DELAWARE SITUATION:

Presently, the Department of Correction lacks an adequate information system to meet this standard. The only evaluation, other than monitoring, carried on is program goal evaluation on pilot projects.

IMPLEMENTATION:

This standard can be implemented administratively after the establishment of an information system. Costs associated with the implementation of this standard have not been estimated.

DELAWARE STANDARD 16.4: Planning New Correctional Institutions (R9.10, R11.1-11.2, R13.2)

*The Bureaus of Adult and Juvenile Correction, administering State institutions for adult or juvenile offenders, should adopt a policy of not building new major institutions for juveniles under any circumstances. New institutions for adults should not be contemplated unless an analysis of the total criminal justice and adult corrections systems produce a clear finding that no alternative is possible. If a new institution is planned, its design should fit modern specifications.*

DELAWARE SITUATION:

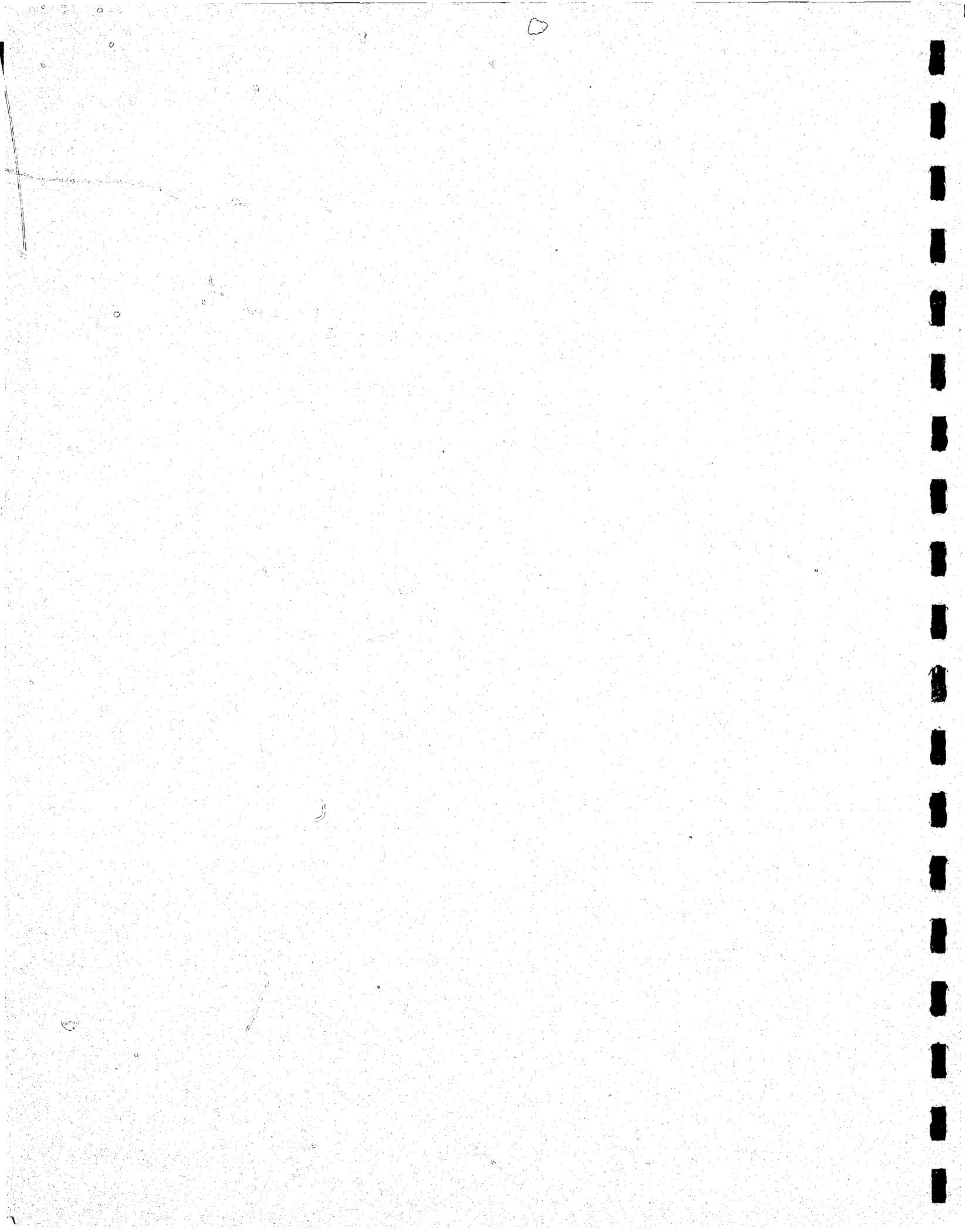
The Department of Correction does explore all alternatives before planning a new institution, but has no formal policy on this matter. Construction now planned consists of the renovation of the Sussex Correctional Institution (SCI), additions to the Delaware Correctional Center (DCC), and the building of the Delaware Youth Center on the Ferris grounds. House Bill 1307 signed August 3, 1976, provides for the construction of a new maximum-security 50-bed facility at DCC.

IMPLEMENTATION:

This standard can be implemented through the adoption of formal policy of current practices. No costs are associated with the implementation of this standard.

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## CRIMINAL JUSTICE SYSTEMS

### Preface:

Three (3) major areas of concern in criminal justice are as follows:

1. Coordinated comprehensive State and local planning.
2. Automation of the criminal justice information system.
3. Modernization of the criminal code.

The common needs of police, courts, the correctional system, and related agencies for information which will assist both operations and management must be addressed by a computerized information system that will serve the needs of crime control, improve agency management and use of funds, and meet legislative requirements.

The intent of the standards bearing on information system is to promote, develop, and implement the coordination and operation of the Criminal Justice System in order to avoid duplication and to assure maximum levels of service. A careful balance of State guidelines and local discretion is required. These standards should assure a comprehensive program of criminal justice services.

Delaware has begun to implement such a system. The keystone of the system is CLUES (Comprehensive Law Uniform Enforcement System) which provides operational data concerning wanted persons and criminal histories and compiles crime incidence data for the national Uniform Crime Reports.

The 1974 Delaware Comprehensive Data System Plan (CDS) was designed to build upon and expand the CLUES system to meet the objectives specified above. It delineates goals, objectives,

evaluation milestones, and projected costs for development and operation of the system to the year 1978.

Development costs are covered by an action grant from LEAA. The State will ultimately be responsible for ongoing operations.

In passing, the reader should note the following differentiation between standards and recommendations:

Standards affect governmental agencies, their behavior, attitude, and procedures. They can (1) be stated in measurable terms; (2) be objectively evaluated; and (3) serve as a basis for legislative action.

Recommendations are (1) directed at agencies, bodies, or individuals not part of government; and (2) are general in nature.

CRIMINAL JUSTICE SYSTEMS

OBJECTIVES

DELAWARE STANDARD 16: Criminal Justice Planning

Objective: To improve and coordinate criminal justice planning among all the agencies and components of the Criminal Justice System. Budgeting should reflect program needs and be utilized to achieve both short- and long-term goals. (Chapters 17 and 18)

DELAWARE STANDARD 17: Criminal Justice Information System

Objective: To meet the planning, management, and informational needs of each criminal justice component through an automated data system while still preserving the fundamental guarantees of privacy and confidentiality. (Chapters 18 and 19)

DELAWARE STANDARD 18: Criminal Code Revision

Objective: To expand the duties of the Code Revision Commission to address future changes in the recently (1972) revised criminal code. (Chapter 20)

## CHAPTER 17

### PLANNING FOR CRIMINAL JUSTICE

DELAWARE STANDARD 17.1: Criminal Justice Planning Capacity (S3.1-3.4, S10.3-10.4, S11.1-11.3, K)

*Each level of government in the State of Delaware should be represented in a criminal justice planning unit. A State Criminal Justice Planning Agency should be mandated by statute. Each major city or county should have a criminal justice coordinating council whose chief planner reports directly to the chief executive of the jurisdiction.*

*Each criminal justice planning unit is responsible for identifying problems, setting goals and strategies for crime reduction, and evaluation for that jurisdiction. To assist planning agencies in defining the needs, problems, and priorities of the jurisdiction, the cooperation of criminal justice operating agencies, governmental departments, and private citizens should be sought. Monitoring and evaluation should be an integral part of all levels of the planning process.*

DELAWARE SITUATION:

The Delaware Agency to Reduce Crime, established by Executive Order #77, is the Delaware State Planning Agency. New Castle County has a coordinating council to ensure coordination on criminal justice issues. The State or county government serves as the planning agency for smaller municipal departments.

IMPLEMENTATION:

The State Planning Agency should incorporate a research capability. The cost of implementation for this standard should not vary greatly from the present allocation. Allowance must be made for increased personnel costs and research personnel if the Delaware Agency to Reduce Crime is to expand its research responsibility.

DELAWARE STANDARD 17.2: The Planning and Budgeting Link (S1.2)

*The State of Delaware and its units of local government should use criminal justice planning as one of their guides to budget decisions. By 1978, the DARC and*

all other planning agencies should develop a multiyear plan which accounts for and identifies crime control activities including all sources of funding. Within three (3) months of the formal adoption of this, policy planning and budgeting units should develop methods of working together. When appropriate, detailed master plans should be developed with the cooperation of planning and operations personnel for those areas of criminal justice like Courts and Corrections where long-term problems can be forecast. Such plans should serve as a basis for future annual budgeting and appropriations decisions.

#### DELAWARE SITUATION:

The Delaware Agency to Reduce Crime issues a comprehensive plan each year. The 1977 Plan is a multiyear document.

It is hoped that one of the accomplishments of the Statistical Analysis Center will be to improve the link between planning and budgeting.

#### IMPLEMENTATION:

Representatives of the DARC, the State Planning Office, the State Budget Office, county governments, the City of Wilmington, and the League of Local Governments should form a commission to oversee the necessary implementation of this standard on the local level. Minor costs would accrue to provide resources for evaluation, data collection, and analysis.

#### DELAWARE STANDARD 17.3: Statewide Minimum Standards for Grant and Subgrant Recipients (S1.3)

*In consultation with the affected agencies, the Delaware Agency to Reduce Crime should establish minimum standards for use in making grant and subgrant awards from all the funds under its control.*

#### DELAWARE SITUATION:

The DARC controls from 3-5% (depending on LEAA and State appropriations) of the public funds spent on all criminal justice activities in the State. Standards and Goals developed for the State are taken into consideration in the 1977 Plan. It is

expected that beginning with the date of final adoption, the major criterion to be considered in all Supervisory Board funding decisions will be the extent to which each grant application will further the implementation of adopted standards and progress toward adopted goals. The DARC has already begun this process by preparing a manual for use in submitting grant applications to the agency.

IMPLEMENTATION:

Implementation of this standard is contingent upon the staff and leadership of the Delaware Agency to Reduce Crime and its Supervisory Board. In most instances the DARC/LEAA funds are not sufficient to significantly affect the total criminal justice process. The DARC/LEAA must persuasively induce compliance to any implementation of this standard.

## CHAPTER 18

### CRIMINAL JUSTICE INFORMATION SYSTEM

DELAWARE STANDARD 18.1: Development of a Criminal Justice Information System (S1.4-1.5, S3.1-3.4, K)

*The State of Delaware should develop a master plan for an inter-related information system for criminal justice. This system should make maximum use of collected data to support criminal justice management and decision-making. The State should provide on-line files which fill common information and management needs of police, courts, and the correctional system as well as legislative and executive decisionmakers. Each major local police agency should have an information system which supports special local needs. Each functional component of the system should be served by an information system which supports its own planning and management needs.*

#### DELAWARE SITUATION:

The 1974 Comprehensive Data System Plan satisfied the portion of the standard calling for a master plan. The 1977 CDS Plan outlines the areas which require further development and provides for a team of system analysts coordinated by the Director of the Statistical Analysis Center to accomplish that task. Acceptance and funding by LEAA through the DARC has stimulated the process of implementing the information system.

The basic Police module of the criminal justice information system is presently operating in a real-time manner. A requirements analysis study is underway to produce the design of the total system accompanied by an implementation schedule which includes projected costs.

#### IMPLEMENTATION:

Continued funding by LEAA and the State is necessary so that all criminal justice components can derive maximum benefit from the information system. The current approximation of a fully operational

criminal justice information system would be in the area of \$1.2 million per year for FY77 increasing to \$1.7 million per year in 1981 (assuming an annual inflation rate of 10%). Precise costs would depend on variables such as the economic situation, the hardware in use, and the demands on the system.

DELAWARE STANDARD 18.2: Police Information System (S4.1-4.8, P24.1-24.4)

*The Police in the State of Delaware should have an information system tailored to the immediacy of police operational and management needs. Such a system would increase their capability to analyze the incidence of crime and manpower deployment and control while reducing response time. It would facilitate storage and retrieval of crime data and the use of geocoding. The system should maintain high quality control and be capable of periodic evaluation and modification.*

DELAWARE SITUATION:

CLUES, which is the nucleus of the criminal justice information system being developed, is successfully meeting the operational needs and some of the management needs of the Police. The elements above have been addressed in the Comprehensive Data System Plan.

IMPLEMENTATION:

The current annual cost of CLUES is between \$400,000 and \$500,000. Future costs will vary depending on the economic situation, the hardware being used, and the amount of information expected of the system.

DELAWARE STANDARD 18.3: Corrections Information System (S6.1-6.7, R15.1-15.5)

*In order to meet its management and operational needs, the Department of Correction must plan a comprehensive information system. The system should be flexible enough to allow for the expansion of the data base. There should be a uniform classification of information to provide statistical data on offenders and offender experience.*

#### DELAWARE SITUATION:

The Comprehensive Data System Plan is designed to include the needs of corrections. The Department of Correction, Adult and Juvenile Bureaus, maintains research and planning capabilities. At present, the Department of Correction has an off-line data system and is scheduled to become part of the CLUES system within the year.

#### IMPLEMENTATION:

The implementation for this standard is outlined in the CDS Plan.

#### DELAWARE STANDARD 18.4: Courts Information System (S5.1-5.6, C11.1-11.2, C12.6)

*The courts information system must provide several types of decisional information to the courts to facilitate:*

1. *Calendar management;*
2. *Jury management;*
3. *Appropriate handling of the defendant and his case, including background data and a current case history;*
4. *Substantiation of charges; and*
5. *The ability to count cases and dispositions either by events or by individuals and separate offenses.*

*This listing is not exclusive; other information may be deemed necessary during the design phase.*

#### DELAWARE SITUATION:

All the above considerations are addressed in the CDS Plan. The courts presently are acquiring some of this information in manual files which are readily convertible. Further, there has been initiated for the Superior Court a basic automated trial calendar reporting system.

Two (2) courts analysts began work on the conceptual design for the courts module in August 1976 - one (1) working with Family Court and one (1) with Superior Court.

IMPLEMENTATION:

The implementation of this standard is outlined in the CDS Plan.

DELAWARE STANDARD 18.5: Tracking the Offender (S7.1-7.8, K)

*One of the primary purposes of the criminal justice information system is to document an individual's contact with the system. This information assists the criminal justice operatives in making accurate decisions about offenders.*

*Data collection should be characterized by the use of a uniform design and related operating procedures. Completeness and accuracy of information is essential. Except for intelligence reports, data collection should be triggered only by a formal event - one initiated by a criminal complaint or arrest.*

DELAWARE SITUATION:

State and local police agencies in Delaware are using a uniform reporting system. The Comprehensive Data System is developing a uniform tracking system to follow the offender through the entire criminal justice system.

IMPLEMENTATION:

The CDS Plan covers the implementation of this standard.

DELAWARE STANDARD 18.6: Security and Privacy (S8.1-8.8)

*The State of Delaware should insure the security and privacy of information by establishing a Security and Privacy Council. Among the powers mandated to the Council should be setting minimum standards for security and privacy and determining civil and criminal sanctions for violation of the statute. Among the Council's considerations should be:*

1. *Data collection- the information item must have a potential which outweighs the possible injury to privacy by entry into the file;*
2. *Classification system - a clearly defined system to determine the sensitivity of information;*
3. *Access - the "right to know" and "need to know" are the only basis for access to the files by either criminal justice or non-criminal justice agencies;*
4. *Personnel - hiring should include levels of security clearance of the proposed employee which relate to the sensitivity of the job;*
5. *Violations - there should be strict rules and guidelines and a code of civil, criminal, and administrative penalties for improper handling of information; and*
6. *Information review - the individual has the right to know whether there exists a file on him and has a concomitant right to see and challenge the accuracy of the information.*

DELAWARE SITUATION:

Executive Order #71, dated April 1, 1975, and signed by the Honorable Sherman W. Tribbitt established the CLUES Board of Managers and assigned to it responsibility for the complete management (including security and privacy concerns) of the Comprehensive Data System. It mandates that the Governor's Crime Reduction Task Force act as the Advisory committee to the Board of Managers. Administrative rules and procedures for the management of the system will be subject to the approval of the GCRTF. Through LEAA funding a security/privacy plan was prepared and submitted in March 1976. It has been approved. Phase II of the plan has been submitted and is awaiting LEAA approval.

The CLUES Board of Managers has set up a security committee to develop security and privacy procedures for the Comprehensive Data System. The committee is comprised of a cross section of interest groups.

IMPLEMENTATION:

The Security and Privacy Committee of the CLUES Board of Managers is implementing certain aspects of this standard. Other areas of the standard can be implemented through administrative action while some areas may require legislation.

CHAPTER 19  
SPECIALIZED DATA SYSTEM  
NEEDS -- MONITORING AND EVALUATION

DELAWARE STANDARD 19.1: Basic Communications Needs (S9.1-9.3)

*In order to establish communications among local, State, and Federal criminal justice agencies, access to teleprocessing equipment which uses common terminology and programming language is essential.*

DELAWARE SITUATION:

National standards for terminology and program language have been set up for use in information systems. The LEAA also has guidelines in this area which are followed by the Comprehensive Data Systems Plan.

IMPLEMENTATION:

Where further information is needed, "The Model and Implementation Environment Technical Report #4" (NCIC - Project Search) and the National Criminal Justice Information and Statistics Service Comprehensive Data System guidelines can offer assistance.

DELAWARE STANDARD 19.2: Documentation and Backup (S9.1-9.3)

*Complete system documentation, including analysis and design, computer programs, and operating procedural handbooks should be available before the system is implemented. The technical design should incorporate appropriate requirements for back-up and recovery. After implementation, the system specifications should include requirements for up-date and maintenance of documentation.*

DELAWARE SITUATION:

Delaware is in substantial compliance with this standard. Manuals are outdated. No user's manual or user training is presently available because of the lack of funds.

## IMPLEMENTATION:

The 1977 Comprehensive Plan contains guidelines for the development of a user's manual and for updating the present ones. The CLUES Board of Managers must address the training needs of the system.

The need for documentation is recognized and will be addressed.

## DELAWARE STANDARD 19.3: Legislative Actions (S10.1)

*Three (3) legislative actions are suggested in order to develop a criminal justice information system:*

- 1. A statute to authorize the planning, developing, and operating of a State-level information and statistical system linked with the Federal system;*
- 2. Enabling legislation to provide mandatory reporting of necessary data; and*
- 3. Legislation to enact security and confidentiality controls.*

## DELAWARE SITUATION:

In Delaware the information and statistical system is well underway. The lines of authority were established by Executive Order #71. Delaware feels that such a powerful organization should not be exclusively under one (1) branch of government.

Mandatory reporting of necessary data is covered in Title 11, Chapter 85, Delaware Annotated Code, "State Bureau of Identification Act". Strong legislation for privacy considerations has not been enacted, but is being developed for legislative presentation.

## IMPLEMENTATION:

Continued LEAA and State funding for the CLUES Comprehensive Data System is needed to the minimum level cited in the 1977 multi-year DARC Comprehensive Plan. Legislation covering security and privacy issues must be enacted by the General Assembly.

DELAWARE STANDARD 19.4; Establishing User Groups (S10.2)

*Every information system must establish user groups. These groups should directly influence the operation of the system, its development, and modification.*

- 1. A user group should be composed of responsible representatives of the agencies who receive services.*
- 2. The group should be considered as an operating board that makes recommendations to a higher policy-making board.*
- 3. The group should be responsible for encouraging use of the system and be directly concerned with training personnel for its use.*
- 4. The technical representatives should be advisory only, not voting members of the user group.*

DELAWARE SITUATION:

A CLUES Board of Managers has been established. This board functions as a users group with the responsibility for systems operation. The CRTF is the Advisory Board to the CLUES Board of Managers. At the operational level, the State Police and Central Data Processing have organized users groups for input on day-to-day operational problems.

Other projected components have been invited to attend these meetings. This is a suggested training tool for new users of the system (See Standard 18.2).

IMPLEMENTATION:

Implementation is based on administrative agreements by the affected agencies as to their role in the information system. The CRTF has the responsibility of advising the CLUES Board of Managers.

Cost accrual of this standard should be minimal and absorbed by the user agencies.

DELAWARE STANDARD 19.5: System Analysis and Design (S1.1, S10.3-10.4)

*The State of Delaware should establish an information and statistical system at the State level. Critical elements for planning this system are as follows:*

- 1. Specification of objectives and services including jurisdictional and organization responsibilities, scope of the system, and priorities for development;*
- 2. Indication of appropriate funding source for both the development and operational phases; and*
- 3. Provision of mechanisms for obtaining user acceptance and involvement.*

DELAWARE SITUATION:

The State of Delaware accomplished this standard in 1974 by the development of the Comprehensive Data System Plan which includes a Statistical Analysis Center. Implementation has already begun on the program.

IMPLEMENTATION:

Funding must be continued for complete implementation to take place. The conceptual design being developed will include an implementation schedule and projected costs.

DELAWARE STANDARD 19.6: Monitoring and Evaluation (S11.1-11.3)

*There should be three (3) phases to the monitoring and evaluation effort of the information and statistical systems:*

- 1. Pre-implementation monitoring -- a continuous review and assessment of available material on design and development with each step leading to actual implementation should be carefully reviewed;*
- 2. Implementation monitoring -- direction here is to assure that the operating system meets all the design objectives; and*
- 3. Impact evaluation -- determine how each element of the system is supporting its user groups, assess which processes (information, communications, and decision) are having the greatest positive or negative impact because of the system, examine the relationships that exist between specific features of the system and what benefits the user groups with such evaluations permitting long-range conclusions and appropriate adjustments by criminal justice managers.*

DELAWARE SITUATION:

The CLUES system is using the CLUES Board of Managers for ongoing monitoring and evaluation. The Delaware Agency to Reduce Crime has conducted an evaluation study of the CLUES system and receives periodic progress reports on CLUES development.

IMPLEMENTATION:

Responsibility for monitoring and evaluation would be administrative. The CLUES Board of Managers should arrange these studies.

## CHAPTER 20

### CRIMINAL CODE REVISION

#### DELAWARE STANDARD 20.1: Corrections Law Revisions (S13.4)

*The State of Delaware should revise its corrections laws to promote effective, fair prison administration, staff and inmate education, and modern prison industries.*

#### DELAWARE SITUATION:

The State of Delaware completed a comprehensive Code revision in 1974. There is a two-man commission (See Delaware Annotated Code, Title 1, Chapter 2, Section 210) which incorporates new legislation into the revised code. The code revision committee no longer exists. There has been no separate corrections code.

#### IMPLEMENTATION:

A commission of eight (8) criminal justice managers should be appointed to assist the Department of Correction in revising the corrections portion of the Delaware Annotated Code. The sum of \$10,000 is suggested for expenses. This sum might come either from the State or the Safe Streets Act.

#### DELAWARE STANDARD 20.2: Continuing Criminal Law Revision (S13.1-13.3, S13.5-13.9)

*Either the State of Delaware or the Federal government should fund a criminal law review commission to:*

- 1. Screen all legislative proposals bearing criminal penalties;*
- 2. Review the penalties to ascertain whether a need for them really exists;*

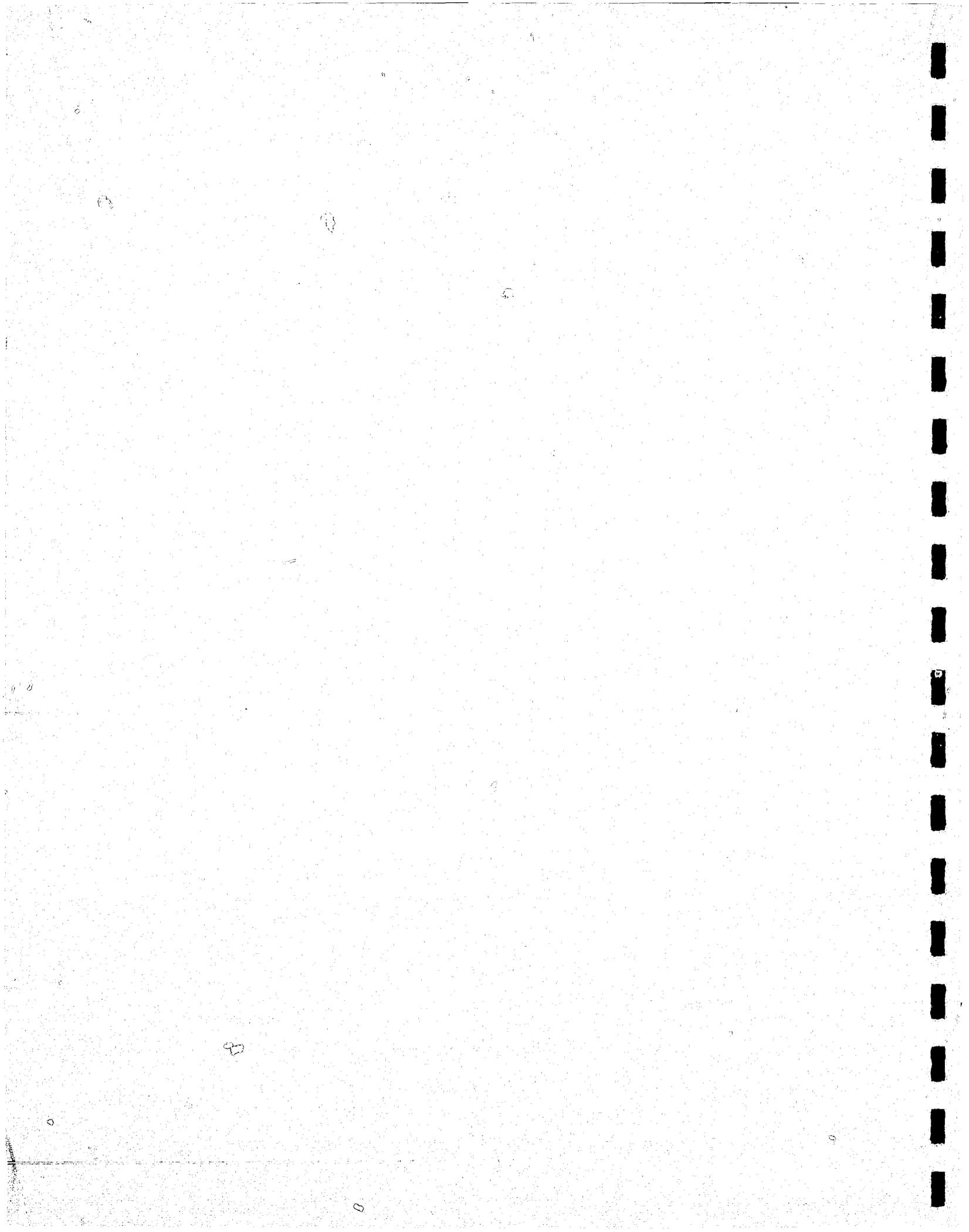
3. Propose legislation where functional gaps in criminal law enforcement appear; and
4. Correlate criminal statutes with others in the Code.

DELAWARE SITUATION:

See Standard 20.1.

IMPLEMENTATION:

The duties of the present code revision commission are limited to conforming new statutes to the Code. It does not propose legislation. If there is no present mechanism to continue the revision process for criminal law, new legislation or executive order would be needed.



## APPENDIX A

### STANDARDS AND GOALS FOR JUVENILE JUSTICE

The escalating rate of juvenile involvement in anti-social activities has become a major social issue. Data available from Delaware's CLUES files for 1973-1975 shows that Delaware is no exception to the national rule.

A study of those files performed by the Delaware Agency to Reduce Crime for its 1977 Comprehensive Plan finds as follows:

. . . Few juveniles are involved in murder and rape, with about an even split between black and whites in absolute numbers.

Robbery, however, involves many juveniles, mostly black. Also, males heavily dominate this crime. In aggravated assault, one finds more whites involved, with a few more females being arrested.

Burglary involves thousands of juveniles and many females. While many blacks are arrested, whites are involved at about a 15% higher rate. The number of juveniles 10 years of age and under for all three years is alarming.

For larceny/theft, the data reveals a high number of juvenile offenders, fairly evenly split between whites and blacks. However, it is clear that this is a female crime, relatively speaking. About one-third of the arrests involve girls. Also, the ratio of girls to boys is generally increasing from 1973 to 1975.

Finally, auto theft, too, is a juvenile crime, but dominated by males. An ethnic shift is noted from blacks in 1973 to whites in 1975.

National Standards and Goals for Juvenile Justice have been promulgated so far only in the context of the five (5) volumes originally developed by the National Advisory Commission. In those volumes there are specific standards which relate to juveniles, while numerous others, though not specific, would affect youth in

relation to the problems of society as a whole.

For instance, recommendations relating to "target hardening" and reduction of criminal opportunity should result in the reduction of youthful as well as adult crime. Similarly, adoption and enforcement of standards relating to integrity in government would, by altering the social climate and affecting role models available to youth, result in greater respect for law, government, and public morality. Indirectly, therefore, there would be a beneficial impact on the juvenile crime rate and the Criminal Justice System, both adult and juvenile.

The following represents a staff effort to highlight for the convenience of the reader those standards and recommendations applicable to Delaware's long-range goals which are specific to juveniles.

For discussion and further information on each standard see the applicable chapter as indicated by the numeral used; e.g., 1.3 refers to Chapter 1 and 11.2 to Chapter 11. The information is current as of September 1, 1976.

## I. COMMUNITY CRIME PREVENTION

### A. CRIME PREVENTION, EDUCATION, EMPLOYMENT, AND YOUTH SERVICES SYSTEMS

- 1.1: Purpose and Objective of a Youth Services System
- 1.2: Function
- 1.3: Support Needs of a Youth Services System
- 1.4: Pre-Trial Diversion Programs
- 1.5: Job Opportunities for Target Groups (Youth, Offenders, and Drug Users)
- 1.6: Removing Employment Barriers
- 1.7: Public Employment Programs
- 1.8: Employment
- 1.9: Housing and Transportation Services
- 1.10: The Home as a Learning Environment
- 1.11: Teacher Training, Certification, and Accountability
- 1.12: School as a Model of Justice
- 1.13: Literacy
- 1.14: Reality Based Curricula
- 1.15: Average Daily Attendance
- 1.16: Community Support by the Educational and Religious Communities

B. PREVENTION AND CONTROL OF ALCOHOL AND DRUG ABUSE

3.1: Multimodality Treatment Systems

II. POLICE

A. THE POLICE ROLE IN CONTROLLING CRIME

5.9: Alternative Methods of Casehandling and Follow-Up Procedures

B. SUPPORT SERVICES AND SPECIALIZED OPERATIONS

6.6: Specialized Operations

III. COURTS

A. CRIMINAL CASE PROCESSING

9.2: Criteria and Procedures for Diversion

B. THE JUVENILE AND CRIMINAL JUSTICE

11.1: Court Jurisdiction Over Juveniles

11.2: Intake, Detention, and Shelter Care for Delinquency Cases

11.3: Delinquency Cases Processed as Adult Criminal Prosecutions

11.4: Delinquency Adjudication Hearings

11.5: Delinquency Dispositonal Hearings

IV. CORRECTIONS

A. DIVERSION AND DEINSTITUTIONALIZATION

16.1: Diversion and Deinstitutionalization

16.27: Comprehensive Process Planning for Juveniles

16.28: Construction Policy for Pre-Trial Detention Facilities for Juveniles

16.29: Role of Police in Juvenile Intake and Detention

16.30: Juvenile Intake and Detention Personnel Planning

16.31: Juvenile Intake Services

16.32: Alternatives to Pre-Trial Detention for Juveniles

16.33: Procedures Relating to Pre-Trial Release and Detention Decisions for Juveniles

16.34: Programs for Juvenile Pre-Trial Detainees

16.35: Rights of Pre-Trial Juvenile Detainees

16.36: Juveniles Incompetent to Stand Trial

16.37: Expediting Juvenile Trials

C. JUVENILE COMMUNITY SERVICES

- 16.38: Organization of Juvenile Field Services
- 16.39: Services to Juveniles
- 16.40: Probation in Release on Recognizance Programs  
for Juveniles
- 16.41: Juvenile Misdemeanant Probation
- 16.42: Aftercare Hearing for Juveniles
- 16.43: Revocation Hearings for Juvenile Aftercare
- 16.44: Measures of Control for Juveniles

## APPENDIX B

### DELAWARE AGENCY TO REDUCE CRIME

#### TARGET GOALS

In 1975, the Delaware Agency to Reduce Crime adopted the target goal concept. This concept holds that the Criminal Justice System is so complex and ridden with so many complicated problems that it becomes counterproductive to attempt to address all problems with limited time, limited staff, and limited dollars. Rather, the Delaware Agency to Reduce Crime has chosen to address a limited number of goals, concentrating staff and dollar resources on critical areas which would maximize the improvement of the Criminal Justice System.

From over sixty possible goals, the DARC Supervisory Board revised and endorsed in December 1975 the following goals to be addressed by the 1977 Plan, continuing the emphasis begun with the 1976 Plan:

#### TARGET GOALS

- (1) Improve the capability of the Criminal Justice System to plan for and evaluate programs.
- (2) Provide crime control operations and equipment aimed at reducing the incidence of robbery and burglary, and harden these targets.
- (3) Minimize the time elapsing during each phase of the judicial process from arrest to final disposition.
- (4) Divert selected youth from further processing in the Juvenile Justice System using pre-determined criteria and procedures.
- (5) Minimize the overcrowding in the correctional institutions.

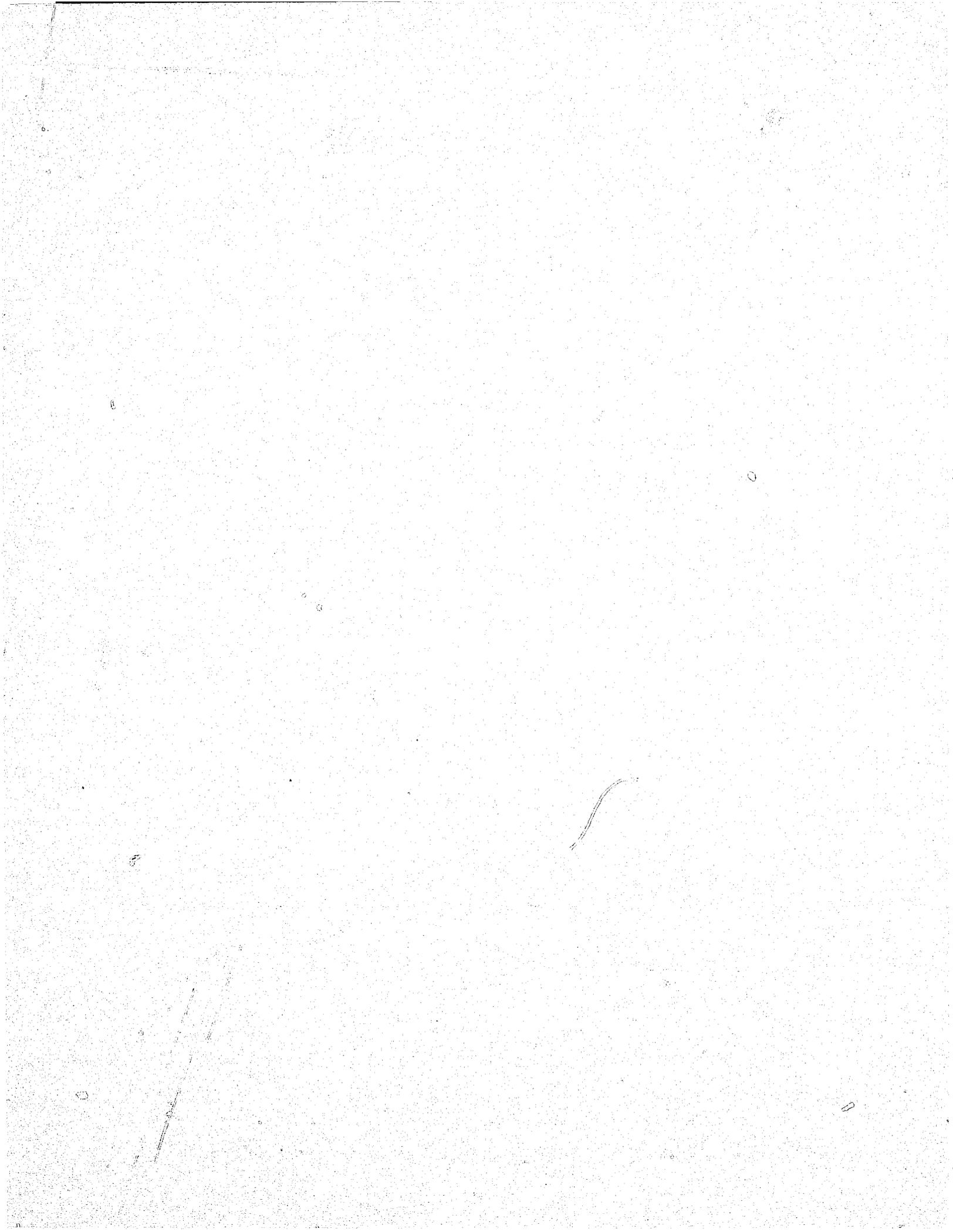
- (6) Provide a coordinated multi-channel police communications system.
- (7) Improve the response of the Criminal Justice System to victims and witnesses.
- (8) Enhance diagnosis, screening, and treatment in the correctional system.
- (9) Increase public awareness and understanding of the Criminal Justice System.
- (10) Improve the capabilities of the Magistrates Court system.
- (11) Provide a coordinated police/community effort that will help alleviate problems resulting from the desegregation order.
- (12) Resolve the police jurisdictional problems in New Castle County.
- (13) Provide an in-state training capability for criminal justice personnel.
- (14) Improve the statewide network of state and local criminal justice agency computer systems.
- (15) Provide an integrated delivery system of prevention programs.

The DARC chose its goals based upon existing studies of the criminal justice system in Delaware, available statistics (including a draft Crime Analysis Report), and the subjective feelings of the Board members, many of whom are involved with the system on a daily basis. They were aided in this decision by the consensus comments of five (5) consortia of criminal justice operating agencies representing:

- o City of Wilmington
- o County of New Castle
- o Regional Chiefs of Police/Delaware State Police
- o Administrative Office of the Courts/Attorney General/  
Public Defender
- o Department of Corrections/Department of Health and  
Social Services

Each of these consortia is represented by a "satellite planner" whose task it is to serve the planning needs of the consortium and address certain elements of the State Comprehensive Criminal Justice Plan.

The chart on page iii divides target goals into two (2) categories: those having direct impact upon the system and those having indirect impact upon the system. Direct impact standards (those underlined) are those which, if implemented, will have a significant influence on goal achievement. Indirect impact standards, although supportive of the Target Goal, will have only a tangential influence once implemented.



**END**