

# INTRODUCTION

## Engaging with our Community

### Community Court initiative launches in Wilmington

In life we make mistakes, sometimes very serious ones. And that is when having the chance to redeem yourself is most important. None of us are perfect enough that we have not needed a second or third chance, or perhaps even more than that. Any genuine concept of justice embraces this reality. Although defendants who commit criminal acts must be held accountable for their actions, that does not mean we should throw them in metal boxes and forget about them. Not only is that morally wrong, it is counterproductive to society. A much better approach recognizes that justice includes the chance for redemption, especially for people who commit low-level offenses. Likewise, it is just not smart to ignore the reality that incarcerating non-violent offenders among violent convicts causes the non-violent offenders to harden in order to survive, increasing the chance that, once they are back outside, their criminal behavior record will worsen.

To address these realities, our State, and our Judiciary in particular, has sought to help defendants address the underlying problems that contribute to their criminal behavior. When a defendant has a serious opioid addiction, he is going to do whatever he can to feed his habit. If a defendant has a mental disorder that is left untreated, failing to address that problem can lead to behavior that hurts others. And perhaps most important of all, when someone can't feed his family because he can't obtain a decent job in the legitimate economy, he might seek money through the drug trade, not because he wants to be a drug dealer, but because he can't earn a decent living otherwise.

And similar realities extend to the civil litigants before our courts. Child custody and neglect cases often stem from underlying problems like poverty, substance abuse, and mental illness. An inability to address growing debts can lead to homelessness and make it difficult for a parent to support her child.



*Visitors check in for the Community Resource Center Fair at the Leonard L. Williams Justice Center on August 24, 2018.*

To better tackle these stubborn problems, our Judiciary knows that it is critical to reach out and draw on the talents, compassion, and resources of our entire community. This coming year the Judiciary will broaden and deepen our traditional cooperation with, and respect for, our community and government partners. In 2019, the Delaware Courts will work to transform the largest courthouse in our state into a genuine “Community Court,” one where there is only a right door, and never a wrong door, for criminal defendants and civil litigants in need of help to become more productive and law-abiding citizens.

This ambitious effort brings together two strands of our Judiciary’s work: i) our long-standing efforts to create problem-solving approaches to criminal cases that address the underlying causes of criminal behavior; and ii) our overall commitment to making sure that all Delawareans have fair access to justice.

The Judiciary’s work with problem-solving courts began in the late 1990s when the Superior Court created a Drug Court. Over the years, other targeted, treatment-focused specialized courts followed, including for defendants with mental health issues and for military veterans. Many of these problem-solving courts were founded

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because of a particular judge's commitment. The problem then arose that if that judge retired, the problem-solving court might cease operations for a time or begin operating in a wholly new way because the court's process was often tailored to that judge's style. This lack of uniform standards in addressing similar cases and problems led to inconsistencies in approach across county lines and across courts. In 2014, the Criminal Justice Council of the Judiciary (CJCJ) was formed, in part, to review the operations of all of the Judiciary's problem-solving courts, to ensure that the problem-solving courts were working efficiently, consistently, and thus effectively. After more than a year of study, the CJCJ made a series of recommendations with a goal of creating a consistent, effective, and unified statewide Treatment Court System. The recommendations included unifying the separate Drug Courts in the Court of Common Pleas and the Superior Court in New Castle County into a single Drug Court for New Castle County with: i) cross-jurisdictional authority; ii) more streamlined schedules to help treatment providers and other criminal justice system partners; and iii) uniform, high-quality standards. This same approach needs to go statewide, and then be applied to the mental health courts as well, so that litigants have access to a single, high-quality, uniform approach to problem-solving adjudication in all key areas, and so that the system works efficiently for treatment providers and key partners like the Department of Correction.

To this same end, the CJCJ has established best practice standards for all problem-solving courts, based on the latest research and the best practices used by other, similar treatment courts nationwide. The recommended Best Practice Standards (the "Standards") are posted online at <https://courts.delaware.gov/aoc/publications.aspx>. The Standards were developed by a working group consisting of a broad cross-section of the criminal justice community including the Judiciary, the

Department of Justice, the Office of Defense Services, the Bureau of Community Corrections, the Division of Substance Abuse and Mental Health, the Treatment Access Service Center, the U.S. Veterans Administration, and treatment providers from all three counties, helped by consultants from the National Center for State Courts. Treatment courts cannot work fairly and efficiently if there is not agreement among the courts, and their key partners, on the courts' goals, the incentives for participants, and the rewards and consequences that should follow certain behavior. Treating like cases in a like manner is critical to doing non-arbitrary justice and so is providing offenders with a



*Chief Justice Leo E. Strine, Jr. addressing a meeting of the Wilmington Rotary Club on May 3, 2018.*

fair and sensible set of incentives and responsibilities. To do real justice, consistent standards must govern the incentives and consequences litigants face. And all those in authority over the defendant — the probation officer, the judge, the treatment professional — must be working off the same rules, and must adhere to the agreed upon approach. Regardless of the specific judge, the specific county, or the specific probation and parole officer, litigants should receive adherence to the same fair and predictable standards.

The next step is to take the more general guidance of the Standards and to do the even harder work of actually putting together the manual of rules and procedures, the "playbook" for the court and all its constituents. As with the Standards, the playbook will be developed in concert with all the key players. The playbook will take the best practices from a general level down to the critical level of specific application to litigants by addressing issues like: What should the consequence be for a first-time curfew violation? To what extent should defendants in certain problem-solving courts be tested for substance abuse, and how does this vary on the basis of which of the problem-solving courts is involved?

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For example, testing for alcohol or marijuana use is essential to a substance abuse court, but may not be as essential in a reentry court setting, where other conditions might be more relevant to both the participant's progress and the safety of the public. Agreeing on the expectations for litigants, and the consequences that should flow from non-compliance, is critical to giving defendants a fair chance through a non-arbitrary process. As important, the playbook must address the positive rewards that can be granted to defendants when they make progress, and ensure that the professionals, like probation officers and treatment staff who work the closest with defendants, are the ones who play the primary role in allocating these rewards. For problem-solving courts to work, the people who spend the most time working with defendants must have carrots, and not just sticks.

The ultimate goal of this effort is to make sure all litigants who might benefit from a community-based sentence addressing the problems contributing to their criminal behavior get access to help. We want a "NO WRONG DOOR" approach, which recognizes that many offenders have co-occurring conditions, and that each offender is a unique human being with diverse challenges. To that end, we need to review the sources of referral to our problem-solving courts to make sure that we are doing the best we can to identify defendants who need our help. By way of example, many defendants arrested for theft or prostitution may primarily need substance abuse treatment, because they engage in that activity to pay for their drug habit. Meanwhile, many poor defendants caught up in the drug trade may not be addicts, but have educational and skill gaps that make them unable to earn an honest living. Therefore, our referral procedures need to be reviewed and brought up-to-date so that we can better identify what problems individual offenders have and refer them to the proper programming.

For many defendants, the biggest underlying problem is poverty and the inability to provide for themselves in the

legitimate economy. But right now, there is a gap in the system. We do not have a "J — O — B" court that focuses on this critical and pervasive issue, and that links offenders to a logical sequence of job readiness training, followed by specific vocational training, and then employment. We must do better in this area, and have reached out to the Executive Branch, the Department of Labor, and the private sector for help. We hope to get private sector businesses to work with us to be "Take-a-Chance" employers, and to give offenders an opportunity to become self-sufficient paycheck earners.



*Superior Court Judge William C. Carpenter Jr. speaking about measures to improve Delaware's Problem-Solving Courts at the Delaware State Bar Association in September 2018.*

The vital next step in these efforts is the creation, in New Castle County, of a "Community Court" in the Leonard L. Williams Justice Center. The Community Court will not operate as something new in addition to our existing efforts at problem-solving. Rather, the Community Court will be the framework within which all of our efforts at problem-solving courts are organized. The goal is to streamline and rationalize court calendars so that treatment providers and probation officers spend less time in the courthouse and more time working with their clients. The goal is to make sure defendants from various courts who have common problems and needs can

be better identified, so that more efficient methods of program delivery can be developed.

With the move of the Justice of the Peace Court into the Justice Center, all the courts in New Castle County will be in the same building, linked directly to all key bus routes. Professionals from the Department of Justice, Office of Defense Services, police agencies, Department of Correction, Department of Labor, Youth Rehabilitative Services, and treatment agencies will not have to go to more than one facility. And with the integration of the problem-solving courts on a non-court specific basis, the professionals will be able to focus their time even more within the courthouse itself.

Much like our Division of Motor Vehicles does to better serve the public, the vision is for Community Court to

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offer evening hours once a week. And the hope is for each week to have a focus on a quadrant of Wilmington, such as West Wilmington Wednesday, allowing city officials, community organizations, and residents from that area of the city to use the courthouse for community meetings, to address cases from that area, and to solve their community issues together. Importantly, we also want to stop making kids in Truancy Court — who by definition are out of school too much — miss classes to come to court during school hours. Likewise, we want to help offenders keep their jobs and having evening hours should further this goal. We hope to offer the courthouse itself as the place where defendants can do some of their initial programming (e.g., an initial course in preparation for more intensive job readiness training) by coming to the Justice Center once a week to attend evening sessions.

Consistent with this effort, we will simultaneously work on using the Justice Center to provide programs to help people with questions about key issues like consumer credit, landlord-tenant disputes, the need for guardianships or other related issues for vulnerable or aging family members, and Family Court problems like child custody and child support. Access to justice does not divide into two stark categories of civil and criminal. For many people, the failure to address a key civil legal problem can be the catalyst for criminal behavior. By opening up the Justice Center through Community Court, and doing our best to help all litigants get effective access to justice, we will strengthen our efforts to address the root causes of crime. And, by helping offenders improve

their prospects, we make it much more likely that they will be able to provide for their children.

A good example of how Community Court will address these related concerns is the Community Resource Center (CRC) set to open in the Justice Center in 2019. The CRC can link litigants, regardless of court, to essential services through our state agencies and community partners including: Brandywine Counseling and Community Services; Pace; In Her Shoes, Inc.; the Food Bank of Delaware; Housing Alliance of Delaware; Catholic Charities; Child, Inc.; Goodwill; Ministry of Caring; Project New Start; Academy of Peace; Girls, Inc.; Stop the Violence Coalition; Sunday Breakfast Mission; United Way of Delaware; Wilmington HOPE Commission; Wilmington Job Corps; Delaware Guidance Services for Children & Youth, Inc.; and the Delaware Community Reinvestment Action Council, Inc.

The breadth of the agencies listed highlights the diverse problems the Community Court seeks to address. Although the challenge is daunting, by drawing on our collective strength as a community and working together in good faith, we can give criminal defendants and all litigants a solid chance to improve their lives. If we can do so, we will improve public safety and the quality of life in our most populous county. And then we hope to build on the lessons learned, and extend the same concepts to Kent County and Sussex County, so that we will be able to say that we have done the best we can to make sure that in the deepest sense, we have provided access to justice for all Delawareans. ♦

## LEGISLATION

The Judiciary’s legislative team brings together representatives of the Courts and the Administrative Office of the Courts to enhance the effectiveness of the Judicial Branch’s relationship with the General Assembly by serving as the main Judicial Branch contact for legislative matters and by monitoring and analyzing legislation for impact on the Judiciary. The following legislation proposed by the Judicial Branch was passed during FY 2018 by the 149<sup>th</sup> session of the General Assembly:

| BILL NUMBER | DESCRIPTION   |
|-------------|---|
| SB 232      | This Act expands the total number of judges on the Court of Chancery to 7 by adding two new Vice Chancellors. |