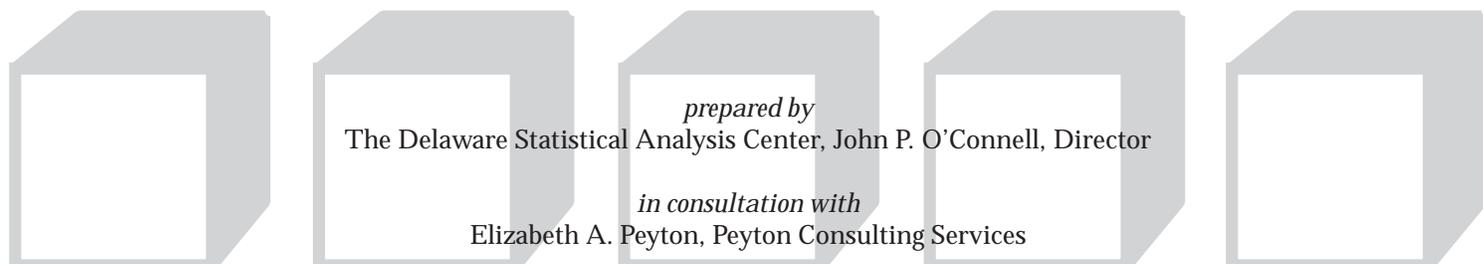
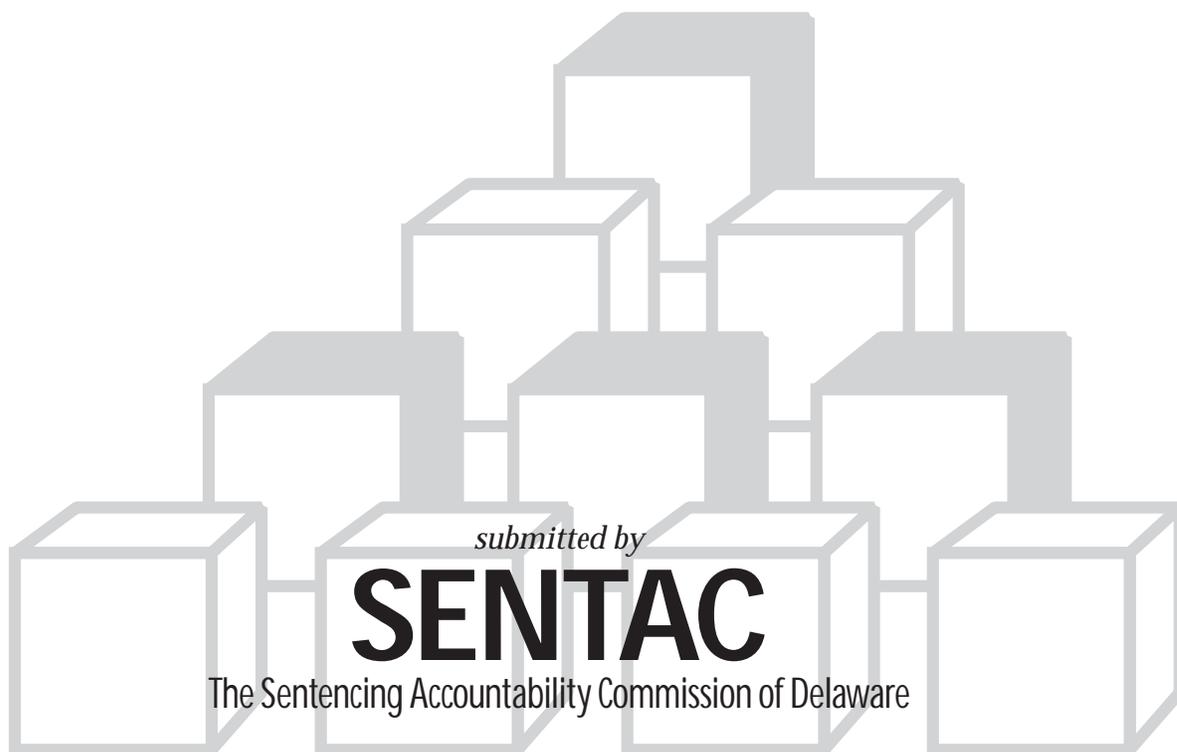


A Report to the Joint Finance Committee of the Delaware General Assembly

Adult Detention in Delaware: Issues and Implications

December 2002



Inside Front Cover—Does Not Print

A Report to the Joint Finance Committee
of the
Delaware General Assembly

Adult Detention in Delaware: Issues and Implications

December 2002

submitted by

SENTAC

The Sentencing Accountability Commission of Delaware

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Richard S. Gebelein
Chairman
Delaware Sentencing Accountability Commission

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EXECUTIVE SUMMARY

There is no doubt that the detention population in Delaware has grown significantly and consistently over the last few years. This report shows that the population itself is complex, and that growth has resulted from a variety of factors.

Overall, the system is working well. Those detained, particularly for any substantial length of time, are offenders charged with serious crimes, with lengthy criminal records, or held in violation of probation, often in addition to a new charge. Inarguably, these are the types of offenders that need to be off the streets to protect the public.

Importantly, the detention population consists of several different populations: persons awaiting trial or sentencing, persons held for *capias*/contempt, or persons held for administrative reasons, including violations of probation or federal or other holds. It is therefore erroneous to assume that the detention population is made up of only persons held awaiting trial, and additional resources for the specific purpose of reducing court delay would likely have minimal impact on reducing the detention population.

Between 1981 and 2000, detention admissions increased by almost fourfold, from 3,526 admissions in 1981 to 15,903 in 2000. The proportion of detainees held for new crimes—the “pretrial” detention population—has actually decreased although the number of persons in “pretrial” status grew almost threefold. Growth in the pretrial population is mainly attributable to increased admissions for drug, violent, and weapon offenses.

The primary increase in the detention admissions has occurred in the “administrative” category due to growth in the number of people held for *capias*/contempt (which grew from 9.6 to 13.0 percent of the total detained population between 1981 and 1999) and for violation of probation (increasing from 3.1 to 24.4 percent of the total population between 1981 and 1999). By 1999, almost 40 percent of the detention population was in the administrative, not the new crime, category.

While the number of admissions has increased dramatically, the average length of time detained has remained surprisingly stable. In 1981, the average time detained for all categories was 28.6 days, compared to 28.9 days in 1999. Furthermore, most detainees are released quickly, with 28 percent released by the third day; 48 percent released by the seventh day; 64 percent by the 14th day; and 94 percent within 120 days (the Judiciary’s speedy trial standard). There has been an increase in the number of days that serious offenders are held (drug, weapon, and other violent offenders), but this has been offset by a reduction in the time it takes to process administrative cases, even though administrative cases must wait for a hearing rather than simply “make bail.”



Policy and structural changes led by SENTAC have focused on increased accountability, and the VOP rate is in part reflective of this. However, the criminal justice system overall has changed, expecting demonstrable behavioral change on the part of offenders. While SENTAC provides an organizational framework for punishment, accountability, and resource management, some program development (e.g. Operation Safe Streets, Fast Track, and Key/Crest expansion) has not been initiated by SENTAC, although this programming is not inconsistent with SENTAC goals and objectives. Most of this activity has occurred as the system responded to significant increases in drug offenses and the number of people with substance abuse related criminal activity.

The types of crimes for which people are detained have also changed. While there have been much publicized reductions in “Part I” crimes (including homicide, rape, assault, burglary and robbery), these reductions have been offset by double-digit increases in drug crimes. Drug crimes, administrative holds (particularly violations of probation), violent crimes and weapon offenses are the primary drivers of the increase in detention in Delaware.

The type of offender detained in Delaware has also changed. The size of the “at-risk” population, traditionally regarded as 18-34 year old males, has not changed since 1981. However, the criminally active population in Delaware has become older, with about 40 percent of the detention population over age 34 and the average detainee age at 32 years. This factor is likely attributable to drugs, with substance abusers extending their drug-related criminal activity past the age (approximately 34) after which criminal activity used to dramatically decrease. Further complicating the issue, we are seeing more serious criminal histories in the detained population, with an average of 18.8 prior arrests for all detainees in a June 2002 population snapshot. Based on these factors, we believe we are seeing chronic substance abuse elongating periods of criminal activity, resulting in detention and lengthy sentences being imposed on older offenders.

A hodgepodge of programming is aimed at reducing detention rates and intervening with offenders at the pretrial stage. There appears to be a link between the activities and caseload of the DOC’s Pretrial Services Detention Management Program and detention rates, but there is insufficient information to indicate that defendants in this program are actually persons diverted from a detention bed and not persons who may have been released on bail anyway. The increase in the population of DOC’s now defunct Pretrial Services Detention Management Program and the opening of the DOC’s VOP Center in Sussex County appear to be associated with the 330 bed drop in the detention population in 2000, although neither was large enough to satisfactorily explain the full decrease.



Changes in reported practices regarding offenders sentenced to “time served” have not had a measurable impact on the detention population. Likewise, the impact of the recently adopted Court Speedy Trial standards is likely to be minimal. However, the impact of revoking drivers’ licenses for drug convictions could be a cause of the increase in the number of persons detained for Title 21 (driving) offenses, although this issue was not examined in detail. In addition, the impact of HB 438, which requires detention and bail forfeiture for subsequent arrest for violent felonies of those persons detained or released pending disposition on a violent felony, may be significant.

RECOMMENDATIONS

Although the findings in this report do not lend themselves to a single strategy or “quick fix” to reduce the detention population, a number of activities could improve the management of this population as well as control its growth. They include:

1. Support the ongoing analysis of the detention population. This report documents considerable volatility in this population that has heretofore not been thoroughly analyzed. The State should not be in the position of reacting to substantial fluctuations in this population when some changes are clearly related to larger justice system policy or program changes. When conducting policy or legislative analyses, the impact on the detention population should be included.
2. Compile an inventory of existing programming aimed at the detention population and thoroughly analyze the operations, impact, and effectiveness of these programs. Based on these analyses, a coordinated and accountable system of services to provide options to pretrial or administrative detention should be developed.
3. Review the effect of defining most drug felonies as “violent” crimes, and make recommendations for change as necessary.
4. Improve methods of advocacy for the detained population, including:
 - A. Enhance and upgrade the records staff at DOC to improve the review of commitments and flag problem cases. Paralegal staff could provide considerable assistance.
 - B. Encourage more meaningful bail reduction and dismissal motions and more responsiveness to these requests.
 - C. Support the sharing of information gathered at all stages in the justice process (including information from treatment, risk/needs, and other assessments) with the Courts to facilitate efficient bail setting and effective sentencing practices.



5. Conduct a thorough analysis of the population of offenders detained for Violations of Probation, including a review of current policies and procedures related to VOPs as part of the scheduled study of the VOP population to be conducted by the SENTAC Sentencing Research Committee. Examine strategies for improving the management of the VOP population, including the enhancement of VOP standards and protocols, and the creation of a Violation of Probation Court.
6. Continue to monitor changes in the detention population, including age and type of criminal activity and history.
7. Carefully monitor the detention trends of serious offenders, particularly in light of Operation Safe Streets, Project Safe Neighborhood (the federal firearms control project), and HB 438.
8. Establish expedited case management for drug and weapons cases, as these cases do not generally require victim impact statements, complex witness input, or other information that requires extensive time to gather. No new resources would be required to move these cases more quickly.
9. Analyze the cost effectiveness of using capiases to collect small amounts of money and establish a cost effectiveness threshold to place limits on detaining people only for financial obligations.
10. Support the further development and implementation of effective correctional and court management information systems (MIS) to allow for ongoing analysis of detention and other population trends.



**ADULT DETENTION
IN DELAWARE:

ISSUES AND
IMPLICATIONS**

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INTRODUCTION

This study regarding the Delaware adult detention population was prepared at the request of the Delaware General Assembly, which authorized the Sentencing Accountability Commission (SENTAC) to conduct a number of research studies related to correctional treatment, sentencing, and corresponding trends. A research plan was submitted by SENTAC and approved by the Office of the Controller General and the Office of the Budget.

One of the purposes of this study was to explore the reasons for the rapid growth in the detention population in recent years. The growth in the detention population appears to be at variance with the recent stabilization of serious crime in Delaware. The question becomes: Why is the detention population increasing, if crime is not? There has been a concern that speedy trial issues are intertwined with the population increase such that the delays in the court and adversarial process are exacerbating the growth in the detention population. In addition there have been concerns that changing patterns of plea bargaining and sentencing are affecting the detention population.

The Delaware detention population has increased substantially and the reasons are complex. Population change is always dependent on two factors: the number of persons admitted and how long they stay. As this study shows, however, many of the reasons for the population increase do not always meet the traditional assumptions. Changes in policies, new programs, changes in crime, and changes in the criminally active population have all played significant roles.

In addition, detention processes are far more complex than arresting someone for a crime and detaining them. People are in detention for many reasons. Generally, we tend to think of the detainee awaiting a bail hearing or a trial, but other classifications of detainees contribute to changes in the detention population. There are also detainees convicted and awaiting sentencing, defendants wanted for crimes in other states, persons being held on a *capias*, bench warrant or a violation of probation, and detainees held administratively for various federal agencies such as the Federal Marshals and the Immigration and Naturalization Service. Persons not arrested for a new crime when they are detained are referred to as “administrative detentions” in this report. This category includes probation violations, *capias* returns and federal and other jurisdictions’ holds.



This study provides new information on complex issues relating to the detention population. Major findings include:

- ❑ Detention for administrative reasons (probation violations and capiases) has increased much more than detention for new crimes;
- ❑ Increases in detention for administrative reasons are related to the evolution of new programs that has increased community surveillance for mid-level SENTAC sanctions and special programs such as Operation Safe Streets, as well as an increase in the overall number of persons supervised in the community;
- ❑ Detention admissions for new crimes have increased primarily for drug offenses and other serious crimes;
- ❑ Overall, time detained has remained relatively stable, although length of stay for serious crimes has increased;
- ❑ Most persons detained have substantial prior arrest histories;
- ❑ The increase in the detention population is not fully explained by changes in the traditional Delaware “at risk” demographics as it is effected by an increasing number of older offenders.



WHY PEOPLE ARE DETAINED

Upon arrest, all persons not provided a summons to appear at court by a law enforcement officer are brought before a Justice of the Peace Court. At this preliminary appearance the magistrate determines whether the defendant ought to be discharged from the arrest or bound for appearance at court. If it is a capital crime case (that is, there is a possibility of a death penalty), the defendant must be detained at this stage. In all other cases, a sufficient surety to ensure the defendant's appearance at the future court hearing is to be established by the magistrate. If the defendant cannot comply with bail requirements, he will be detained.

DEFENDANTS ARE DETAINED IF THEY CANNOT MEET BAIL REQUIREMENTS

"Sufficient surety" bail can take one of three forms in Delaware: (a) Personal Recognizance; (b) Unsecured Personal Appearance Bond; (c) Secured Personal Appearance Bond.

"Personal Recognizance" is a written agreement that the defendant will obey all directions of the court. Many personal recognizance releases do not involve any more surety than a defendant's signature.

"Unsecured Personal Appearance Bond" involves a promise of a defendant to appear at court. A bond amount is set by the magistrate and if the defendant fails to appear at court, he is liable for the amount of the bond.

A "Secured Personal Appearance Bond" is where the defendant's appearance in court is guaranteed by a surety of cash, property or other assets. The court may require "cash only."

While judges are required to set bail amounts that are not oppressive, they must also take the safety of the community into consideration when establishing bail.

A defendant's bail may also include a variety of conditions including a "no contact" order regarding victims, their families, places of employment or any other persons or places so designated by the judge. Bail conditions can also include requirements for psychiatric, medical and or substance abuse treatment. A condition of bail can be pre-trial supervision. The defendant can also be required to provide suitable support for his family.



People are detained for a variety of reasons: while awaiting trial or sentencing, for capias/contempt charges, or for administrative reasons, including violations of probation or federal or other holds.

BAIL CAN CHANGE DURING A CASE

In most cases bail is initially set in Justice of the Peace Court (JP) by a magistrate. Many cases, however, are transferred to other courts. Many misdemeanor and drug possession cases are transferred to the Court of Common Pleas (CCP), while cases involving domestic and juvenile matters are transferred to Family Court. Felonies are transferred to Superior Court. Justice of the Peace Court “eligible misdemeanors” which can be disposed in JP Court can also, at the request of the defendant, be transferred to CCP.

Once bail has been set, it is subject to ongoing review and change. In fact, on transfer to a different court, the new judge can order a bail review that could make it more or less difficult for a defendant to be released from detention. On application of the Attorney General or the defendant, any court of jurisdiction can modify bail by changing the amount or type of the surety and/or the conditions of release. It is very common for the initial bail amount to be subsequently reduced or modified, especially after the defendant has been detained for a period of time.

NONCOMPLIANCE WITH BAIL CONDITIONS CAN LEAD TO DETENTION

Capias (a warrant for arrest) and contempt citations can be issued for violations of probation, failure to appear at a court hearing (FTA), failure to pay fines, costs, restitution or child support, and for other reasons. A capias can be issued by any Delaware court, with a total of over 60,000 issued in 1999. During 1999, most capiases issued out of Superior Court were for violation of probation (41 percent) or failure to appear (37 percent).

The Court of Common Pleas (CCP) issues the most capiases annually (32,000 in 1999), with the majority for failure to pay or failure to appear. In 1999, over 30,000 capiases were issued by CCP, Justice of the Peace and Alderman Courts for failure to pay (FTP). While some revenue is generated via these capiases, it is offset by the costs associated with apprehending, processing, and detaining these violators. This process may not be cost beneficial in terms of dollars and public safety.

In 2000, just about one out of every seven detainees (2,061) were detained after being arrested for a capias or contempt of court. In addition to the forfeiture of any secure or unsecured bond for a failure to comply, a felony defendant may be charged with a new felony punishable with a term not to exceed 5 years and/or a \$5,000 fine, and a misdemeanor defendant can be charged with a misdemeanor and be sentenced to a term of up to 1 year and/or a fine of \$500. A breakdown of 1999 capiases is shown in Appendix B.

NEW CRIMES AREN'T THE ONLY REASON PEOPLE ARE DETAINED



Today, persons detained for violation of probation represents the highest volume of admission to detention of any specific reason or type of crime. In 2000, there were 3,877 detention admissions for a violation of probation. This exceeds the number of detention admissions for capias/contempt (2,061) which was ranked second and drug crimes (1,765) which ranked third.

In addition to violation of probation admissions, there are other administrative reasons persons are detained. Persons wanted for a crime in another state can be detained until that person is extradited by that state. Suspects are also held in detention for various federal agencies. A person can also be held in detention if he is a material witness in a case and the judge believes that person presents a high risk of flight. These “other reasons” for detention have not contributed significantly to the rapid growth in the detention population.

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SUMMARY OF THE GROWTH OF THE DETENTION ADMISSIONS: 1981 TO 2000



The detention admission pattern in 2000 is very different from twenty years ago. In 1981, there were 3,526 detention admissions and the midyear detained population was 282. In 2000, there were 15,903 detention admissions and the midyear population was 1,088. Between 1981 and 2000, detention admissions increased by almost fourfold. (Technical Note: 2000 detention data is preliminary. We expect small changes in our final analysis).

AT-RISK POPULATION

Delaware's adult "at-risk population" (18 to 34 year olds traditionally regarded as the most prone to criminal activity) increased as much as 6 percent between 1980 and 1990. However between 1990 and 2000, the at-risk population decreased almost back to its 1980 level. In 2000 the at-risk group was only 1 percent larger than it was in 1981: 182,814 in 1981 and 184,168 in 2000 (Delaware Population Consortium, 2001). The size of the demographic at-risk group, by itself then, cannot explain the large increase in detention admissions.

Whereas the adult at-risk population does not help explain the growth in the detention population, the increasing propensity for older persons to be detained does. Twenty years ago, criminal justice literature showed that by the time a criminal reached his late twenties, his involvement in the criminal justice system began to wane. Today, offenders tend to be much older. This means that while the adult "at-risk population" as previously defined has not increased significantly, the proportion of the actual "at-risk population" that contributes to detention admissions has broadened. Persons "at-risk" over age 30 are now an important part of the at-risk cohort.

Consider that in 1981, the average age of a detention admission was 28 years old. By 2000, the average detainee age had increased to 32. In 2000, about 40 percent of the detention admittees were over age 34.



A large number of detainees are held for administrative reasons (primarily violations of probation), and new violent and drug crimes.

ADMINISTRATIVE DETENTIONS HAVE INCREASED SIGNIFICANTLY

In 1981, as shown on Table 1 and Chart 1, administrative detentions (that is, *capias*, contempt of court orders, violations of probation and paroles, federal holds and detainers from other states) made up 21.6 percent of all detention admissions. By 2000, administrative admissions made up 42.4 percent of detention admissions. The increase in the number of violations of probation and parole has been noteworthy as a part of the administrative admissions growth. This sub-category of administrative admissions increased from 3.1 percent of the detention admissions in 1981 to 24.4 percent in 2000.

The change in violation of probation admissions has been caused in part by the Sentencing Accountability Laws of 1987, which established alternatives to incarceration, and more recently the implementation of a series of community supervision programs. All of these community supervision programs, such as drug court, boot camp, intensive supervision and Operation Safe Streets have held offenders on probation more accountable than they had been in the past. It is important to note that SENTAC's graduated sanctions provided a structure for diverting some nonviolent offenders from incarceration, thus contributing in part to the increase in the number of persons on probation. However, the awareness of the increase of persons using and addicted to illicit drugs and the development of community programs to deal with the problem has probably had more to do with the growth of the probation population.

As the number of alternatives to prison sentences and other community supervision programs increased, the size of the DOC probation population increased. Levels I, II, and III (respectively administrative, standard, and intensive supervision) increased just over 75 percent between 1986 and 1999: from 7,985 to 14,006. To meet this demand for increased counts of community supervision cases, the Department of Correction expanded its number of probation officers and began to develop special caseloads for Level IV home confinement and Level III day reporting, boot camp and Key-Crest aftercare programs.

As anticipated by the Sentencing Accountability Commission—although no one had fully anticipated the large volume of cases that resulted—increased surveillance of offenders serving community based sentences resulted in an increase in the number of violators. As identified in this study, many of these violators are held in detention prior to their court violation hearing, even if for only a short period of time.

Detentions for violation of probation cases may overshadow other changes in detention admissions, yet other important changes have taken place. Changes for *capias*/contempt, drugs, weapons and Title 21 traffic cases can be identified in Table 1 and Chart 1. Like violation of probation detentions, the other reasons for changes in detention patterns can also be linked to changes in policy and crime patterns.



Capias/contempt cases increased from 337 in 1981 to 2,061 in 2000. Capias/contempt cases made up 13 percent of detention admissions in 2000 compared to 9.6 percent in 1981. The increase in volume and percentage share of detention activity for capias/contempt cases could indicate that greater risks are being taken in setting bail or an increased willingness of defendants to snub the courts, or both. Likewise, enhanced efforts to use contempt powers to collect restitution, child support, fines and costs in part also explain the increase in capias/contempt detention admissions for those who fail to meet their obligations.

The increase in drug offense admissions parallels our society's involvement with illicit drugs and law enforcement's response. Noteworthy here is that an increase in drug crimes is for the most part driving the increase in drug offense detention admissions. Between 1994 and 2000, illicit drug complaints almost doubled, increasing from 5,913 to 10,552. In the same time period, drug detentions more than doubled from 857 to 1,765. In 2000, drug detention admissions were the third highest in volume, accounting for 11.1 percent of all detention admissions.

Detention admissions for weapon offenses (97 in 1981 versus 837 in 2000) and Title 21 traffic offense (129 in 1981 and 980 in 2000) are also indicative of important aspects of our society. For a weapon offense to be cited as a reason for detention it has to be the most serious charge in an arrest. Crimes like a homicide and robbery often obscure the use of the weapon because in these cases the weapon is charged as a secondary offense. Therefore the increase of weapon charges, by themselves, indicates an important subtlety -- during police stops or investigation more illegal firearms and other deadly weapons are being found. There may be more illegal firearms "on the street" or the courts may have become less willing to release defendants on bail when they have been in possession of an illegal firearm, or both.

The cause for the increase in Title 21 traffic detentions is the remarkable increase in the number of persons in a traffic stop that are driving with a suspended license -- usually lost due to a prior DUI or drug conviction. These detentions are more likely to be for violating a court order not to drive than they are for the traffic offense that resulted in the stop.

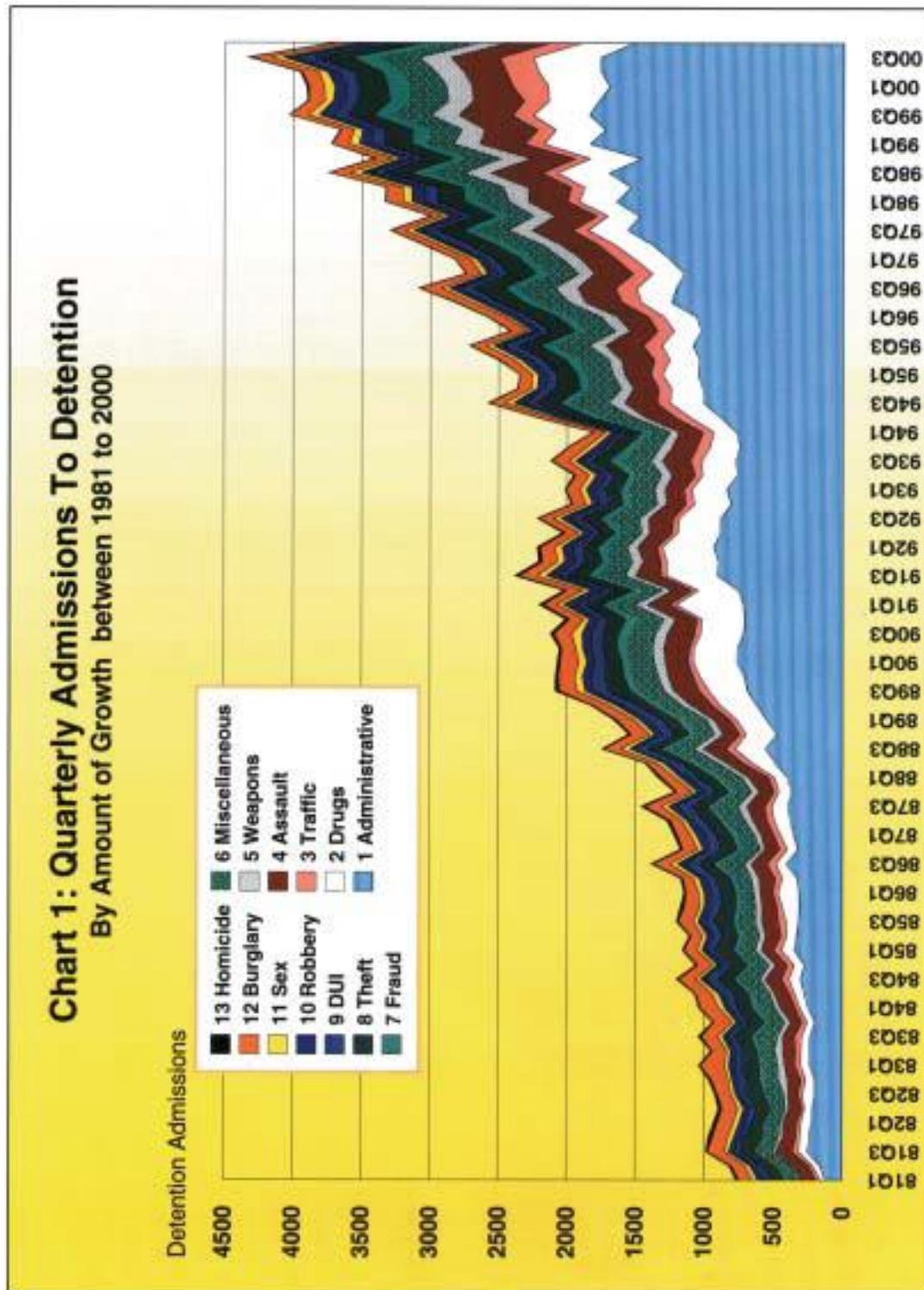
SOME GOOD NEWS DURING A PERIOD OF INCREASES

There, too, is encouraging news in this twenty years detention admission comparison. The number of burglary detention admissions has hardly grown over the years. In 1981 there were 431 burglary admissions to detention that accounted for just over 12 percent of the total detention admissions. In 2000, the number of burglary detention admissions had increased to 509, but even this higher number of admissions accounted for only 3.2 percent of the 2000 detention admissions. The relatively low number of burglary related detentions is associated with the recent decline in the number of reported burglaries. There were 7,486 reported burglaries in 1995 and only 5,240 in 2000.



Table 1

<u>Type of Admission</u>	<u>1981</u>		<u>2000</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
New Crimes				
Assault	434	12.3	1,270	8.0
Burglary	431	12.2	509	3.2
Drug Offense	126	6.1	1,765	11.1
DUI	166	4.7	477	3.0
Fraud	91	2.6	631	4.0
Homicide	82	2.3	61	0.4
Miscellaneous-Other	377	10.7	1,073	6.7
Robbery	193	5.5	367	2.3
Sex Offense	143	4.1	289	1.8
Theft	423	12.0	906	5.7
Title 21 Traffic	129	3.7	980	6.2
Weapon Offense	79	2.2	837	5.3
Subtotal New Crimes	2,764	78.4	9,165	57.6
Administrative Activity				
Capias/Contempt	337	9.6	2,061	13.0
Violation Probation-Parole	110	3.1	3,877	24.4
Federal-Fugitive-Other	315	8.7	800	5.0
Sub Total Administrative	762	21.6	6,738	42.4
Total Detention Admissions	3,526		15,903	



DELSAC November 2002

Chart 1

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SUMMARY OF THE GROWTH OF THE DETENTION POPULATION: 1981 TO 2000

The detention population pattern is very different from 20 years ago. In midyear 1981, the detention population was 282. In midyear 2000, the detention population was 1,088. The detention population had reached an all time high in the third quarter of 1999 at 1,378. This was an end of the quarter count (October 31st), and given daily population fluctuations, there is little doubt that in the third quarter 1999 that the detention population surpassed 1,400. From the low in 1981 to the high in 1999, the detention population increased almost fourfold.

Crime and criminal justice policy have also had substantial impacts. Violent crime increased from 2,792 in 1980 (Crime in Delaware 1989) to as high as 6,010 in 1996; a 115 percent increase. Likewise, there was a dramatic increase in illicit drug activity. In 1984, there were 1,102 (Crime in Delaware 1989) adult drug arrests. By 2000 adult drug arrests had increased to 3,582 (Crime in Delaware 2000); a 225 percent increase. The increase in violent and illicit drug crimes directly and indirectly contributed to the increasing detention population.

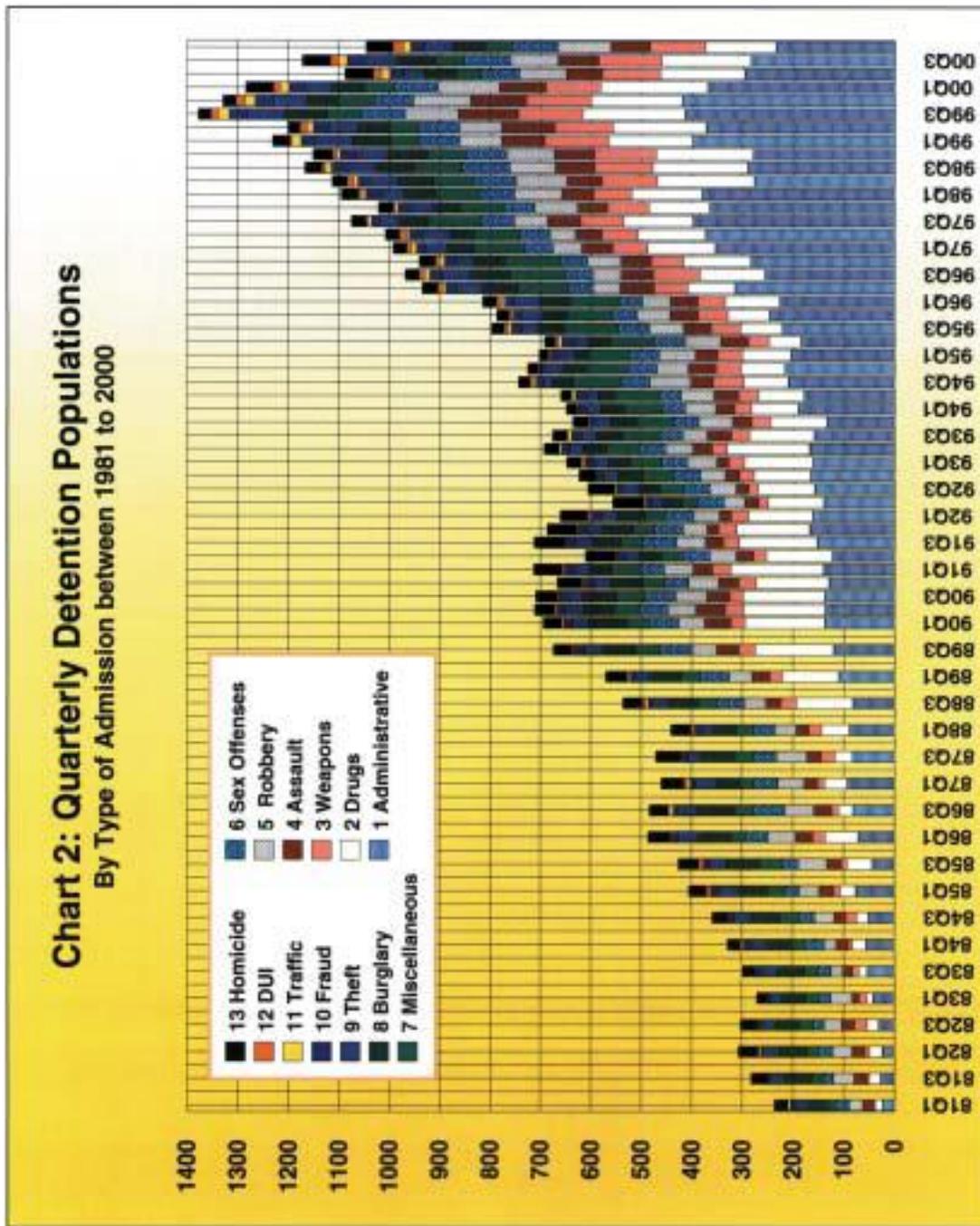
Subsequently, reported violent and property crime decreased. Between 1996 and 2000, reported violent crime decreased from 6,010 to 5,566; a 7.4 percent decrease. Between 1997 and 2000, reported Part I property crime decreased from 37,074 to 30,117; an 18.8 percent decrease. Contrary to conventional wisdom, the decrease in reported violent and property crime has not resulted in a decrease in the detention population. The reduction in the detention population that might have been expected with a reduction of reported violent and property crime has been offset by double digit increases in drug crimes, a strong response to firearm related crimes via Operation Safe Streets and programs related to expanding the community supervision caseloads.

Table 2 and Chart 2 show that the growth in the detention population over the long run is associated with administrative detentions and crimes involving drug offenses and weapons. As a proportion of the total detention population, the administrative detention population increased from 10.2 percent in 1981 to 27.2 percent in 2000. Drug offenses increased from 5.9 to 15.3 percent of the population and weapons offenses increased from 1.3 to 10.7 percent. By 2000, administrative, drug and weapon cases by themselves made up the majority of the detention population: 53 percent, up from 17.5 percent.



Table 2

<u>Type of Admission</u>	<u>Midyear 1981</u>		<u>Midyear 2000</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
New Crimes				
Assault	22	9.3	91	6.5
Burglary	38	16.1	62	5.7
Drug Offense	14	5.9	166	15.3
DUI	0	0	16	1.5
Fraud	8	3.4	29	2.7
Homicide	26	11.1	55	5.1
Miscellaneous-Other	17	7.2	51	4.7
Robbery	26	11.1	93	8.5
Sex Offense	26	11.1	76	7.0
Theft	27	11.4	39	3.6
Title 21 Traffic	5	2.1	18	1.7
Weapon Offense	3	1.3	116	10.7
Subtotal New Crimes	212	89.8	792	72.8
Administrative Activity				
Capias/Contempt	17	7.2	58	5.3
Violation Probation-Parole	6	2.5	212	19.5
Federal-Fugitive-Other	1	.4	26	2.4
Sub Total Administrative	24	10.2	296	27.2
Total Detention Population	236		1,088	



DELSAC November 2002

Chart 2

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TIME DETAINED

Although admissions have increased substantially, time detained has remained relatively stable. In 2000, there were 15,903 detention admissions and at the June 30, 2000 snapshot, the population was 1,088. For the year, the average length of time detained was 28.9 days. This is very similar to the average time detained since 1981 which was 28.6 days. This indicates as does Chart 3, that the average length of stay does not appear to be the cause of the late 1990s large increase in the detention population. The quarter with the longest average time detained was the first quarter of 1987 at 34.4 days. The shortest period for time detained was the first quarter of 1981 at 24.7 days.

The amount of time detained is one of the first factors sought out as an explanation for a high detention population. It is true that a small increase in the amount of time detained can lead to a significant impact on the detention population.

For instance in 2000, if the average time detained had been equal to the 34.4 days as in the first quarter of 1987, the population would have been 1,499 instead of 1,088. Going from middle range to high-end range for time detained would result in a 38 percent increase in the detention population. Each day added to the time detained in 2000 would increase the detention population by 75.

Chart 3 provides an historical view of changes for average time detained between 1981 and 2000. Chart 3 shows that in 2000, on average the amount of time detained does not appear to be a significant problem. In fact, since the time detained peak in 1987, it has declined to close to the historical average time detained. In 2000, the average time detained was 28.9 days. For the period between 1981 and 2000, the average time detained was 28.6 days.

Table 3 shows a more complex picture of average time detained by asking the question: Although average time detained is about at the historical average level in 2000, does that mean that length of detention, by type of crime, is also equal to the historical pattern?

To explore this issue, the 2000 average lengths of detention by reasons for detention were compared to 1983. Historically, 1983 is the most similar year in the pre-SENTAC period to the overall average time detained and 2000.

The results are interesting. Whereas 2000's overall time detained appears "average," the average time detained in 2000 for robbery, sex, burglary, drug, homicide and weapon offenses increased significantly since 1983. For instance, time detained for homicide cases just about doubled (from 126.4 days to 266.4 days). Both robbery and sex offense cases were detained on average more than a month longer, and drug, burglary and weapon cases are detained 2 to 3 weeks longer than in 1983.



Although the detention admissions have grown significantly, time served in detention has remained stable.



If the detention population was only made up of detentions for “new” crimes, the detention population would have increased due to the increases in time detained. In fact, the increase in the detention population due to the increase in time detained for homicide, burglary, drug, robbery, sex and weapon offense would be 230 defendants. Offsetting this increase is the 8.9 day reduction in detained time for violation of probation cases and the 1.8 day decrease for capias/contempt cases. This relatively modest reduction in the average time detained for violation of probation and capias contempt cases offsets the increase due to serious crimes because of the very high volume of administrative admissions in 2000 compared to the relatively low volume of admissions for serious crimes.

Table 3

1983 and 2000 Time Detained (Days) Comparison			
Type of Admission	1983 Quarterly Avg.	2000 Quarterly Avg.	Difference In Days
New Crimes			
Assault	21.6	24.8	3.3
Burglary	35.2	52.3	17.1
Drug Offense	28.5	41.7	13.2
DUI	4.6	13.9	9.4
Fraud	25.1	22.7	-2.4
Homicide	126.4	266.4	140.0
Miscellaneous-Other	19.3	20.4	1.1
Robbery	72.4	108.1	35.8
Sex Offense	69.7	107.4	37.7
Theft	24.7	22.3	-2.4
Title 21 Traffic	4.7	7.7	3.0
Weapon Offense	32.4	55.5	23.1
Administrative Activity			
Capias/Contempt	13.4	11.6	-1.8
Violation Probation-Parole	31.4	22.5	-8.9
Federal-Fugitive-Other	na	na	na
Total Detention Population	27.5	28.9	1.4

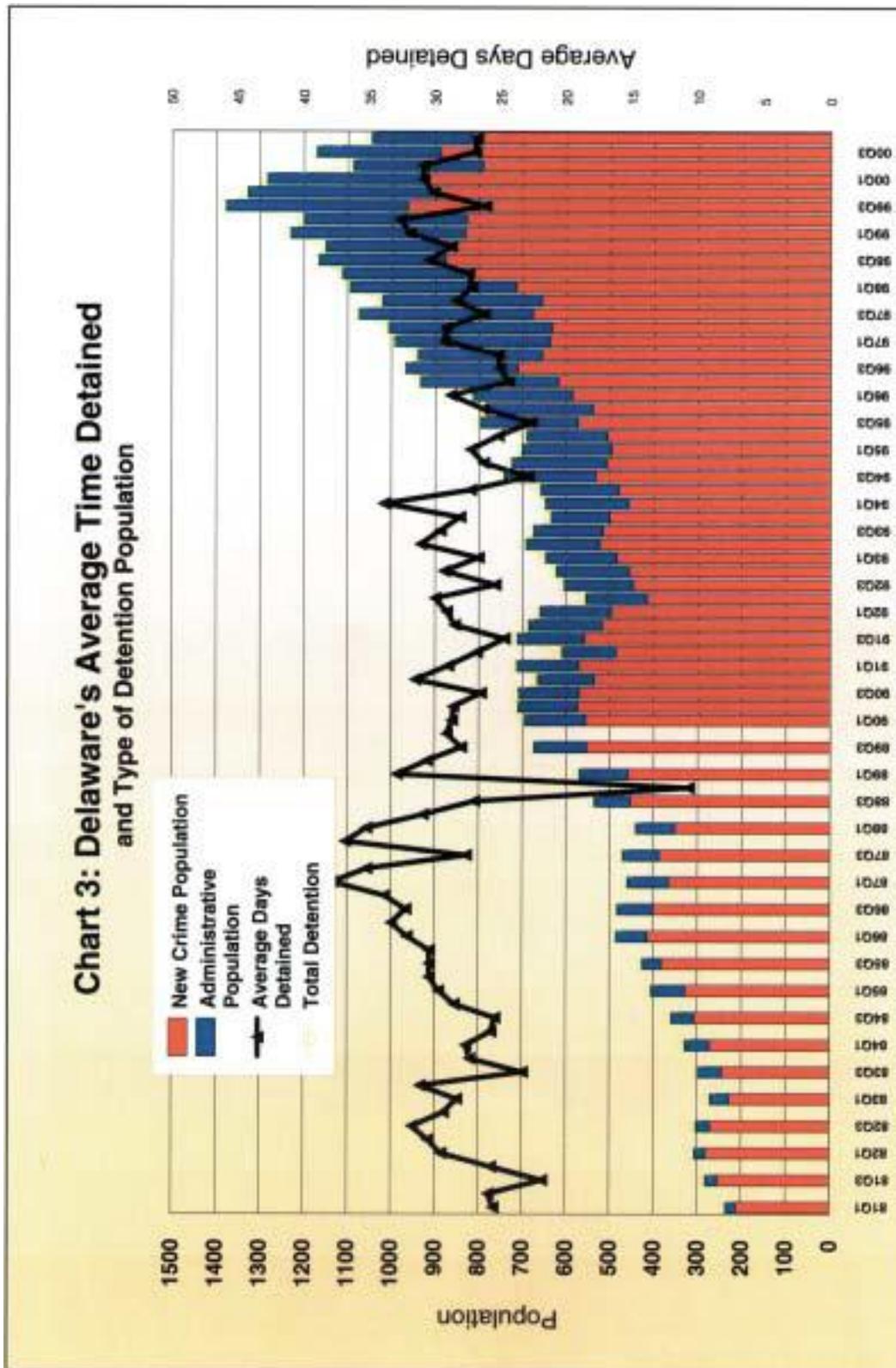


Chart 3

DELSAC November 2002

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DETENTION RELEASE PATTERN 2000

In 2000, just about 16,000 persons were released from detention; some of them two, three or more times. As discussed above, the average time detained over the past two decades has been about 28 and one half days. This average includes many persons who only stay a day or two and a few who stay for longer than a year. This section documents the actual rate at which offenders turn over in detention.

As Chart 4 *Detention Release Pattern: 2000* shows, most detainees are released after a relatively short period of time. For example by the third day, 28 percent of the detainees have been released. By 7 days 48 percent of the detainees have been released, and by 14 days 61 percent of the detainees have been released.

By 120 days, the courts' speedy trial standard, over 94 percent of the offenders have been released from detention. If the approximately 60 days of pre-indictment time, which are not counted under the new speedy trial standard, are factored in, over 97 percent of the detainees would have been released.

Interestingly, as Table 4 shows, administrative cases (i.e., capias returns and violation of probation cases) are less likely to be initially released when compared to new crime cases. After one week, 50 percent of the new crime cases have been released, while only 44 percent of the administrative cases have been released. This slowness of release for administrative cases is not well understood. Many of these detentions are associated with concurrent criminal violations which take time to sort out. Also a detailed review of some of these cases shows the existence of "clerical detentions" where after being sentenced to Level IV to be held at Level V, the computer record update is tardy which makes it appear as though the person is still detained. By the end of one week, only 28 percent of the violation of probation cases have been released compared to 70 percent of the capias cases (See Appendix A) for details.

Over the long run, however, administrative cases tend to be detained for shorter periods than crime cases. So by 90 days, 97 percent of the administrative cases have been released from detention, while only 88 percent of the crime cases have been released.

Of course there are significant differences between the types of crime and the amount of time detained. Obviously homicide related cases tend to be detained the longest. Only 45 percent of the homicide defendants have been released within 6 months. In contrast, capias, DUI and traffic cases show that within 3 days between 43 and 53 percent of the cases have been released from detention. The detailed patterns for 15 reasons for release can be found in Appendix A.



Chart 4

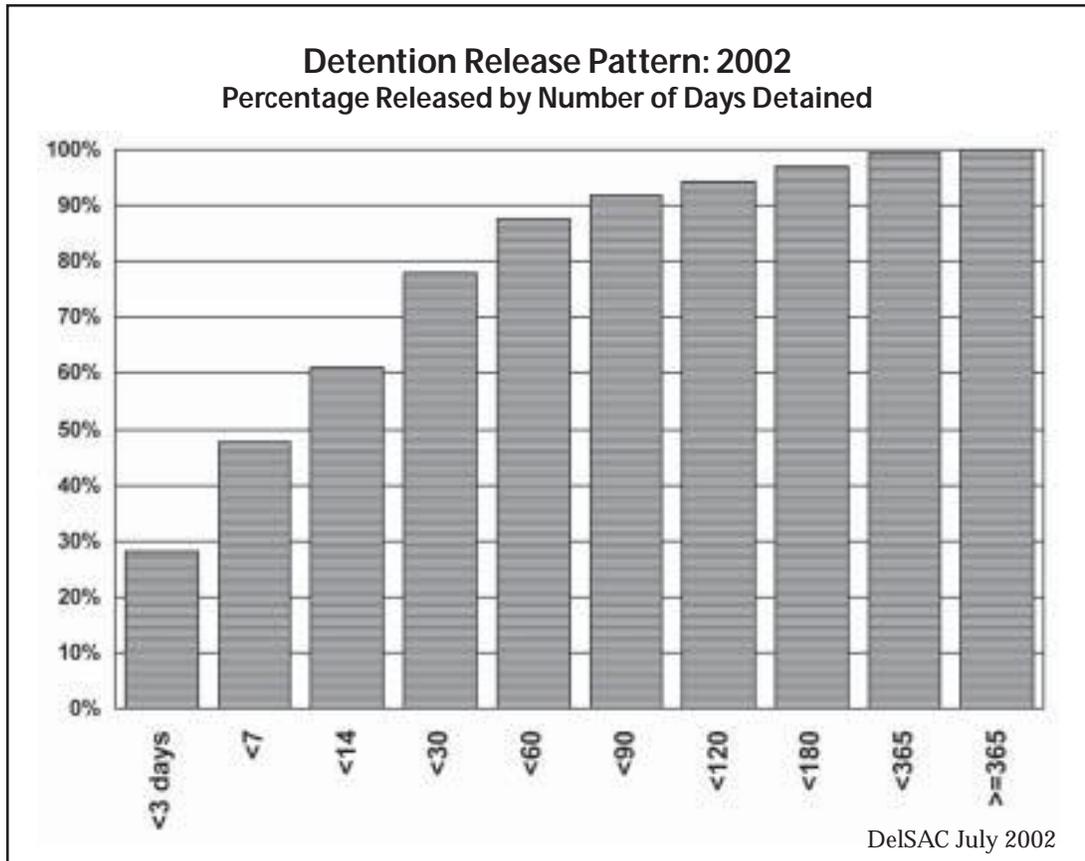


Table 4

2000 Detention Release Patterns
Total, Administrative Acts, and New Crimes

<u>Time Detained (days)</u>	<u>Total</u>	<u>Administrative</u>	<u>New Crimes</u>
Less than 3 days	28.1%	23.5%	31.4%
3 to less than 7 days	47.7%	44.4%	50.1%
7 to less than 14 days	61.0%	59.7%	61.8%
14 to less than 30 days	77.9%	84.1%	73.3%
30 to less than 60 days	87.7%	94.4%	82.9%
60 to less than 90 days	91.8%	97.1%	87.9%
90 to less than 120 days	94.4%	98.6%	91.4%
120 days to less than 180 days	97.1%	99.4%	95.3%
180 days to less than 365 days	99.3%	99.9%	98.9%
Greater than 365 days	100.0%	100.0%	100.0%

POLICY ISSUES

A number of notable trends should be considered when examining implications of policy changes regarding detention.

Most Detentioners Have Prior Criminal Involvement

Heretofore, the criminal history pattern of persons in detention has been unknown. Using the June 4, 2002 population snapshot, Delaware arrest histories for all 1,224 detainees were calculated. This analysis shows that the average (mean) number of all prior Delaware arrests was 18.8. The median (or 50th percentile) was 16 prior arrests. Only 6.6 percent (81) of the detainees were first time offenders, that is, they had only one arrest in their history. Ten percent of the detainees had more than 38 prior arrests.

When violation of probation arrests are excluded from the prior arrest count there is a small reduction in the average numbers of prior arrests for detainees. Without violation of probation arrests, the mean number of prior arrests for detainees is 17 and the median 14. Although there are many violation of probation arrests, many of the violation of probations also include additional criminal charges. In this analysis when both a violation of probation and a new crime are a part of the same arrest event, the event is labeled as a new crime.

Table 5 *Detainee Prior Delaware Arrest History*, summarizes the “total” arrest and the felony arrest prior history patterns for detainees. Only 78 (6.4 percent) of the detainees did not have a prior felony arrest, while 435 (35.5 percent) of the detainees had five or more prior felony arrests.



Detainees in Delaware have serious criminal histories, with an average of 18.8 prior arrests.

Table 5

Detainee Prior Delaware Arrest History (Including VOP Arrests)				
June 4, 2002				
	All Arrests		Felony Arrests	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
First Arrest	81	6.6%	78	6.4%
Second Arrest	46	3.8%	241	19.7%
Third & Fourth Arrests	74	6.0%	470	38.4%
Five or More Prior Arrests	1,023	83.6%	435	35.5%



UNPRECEDENTED DETENTION POPULATION GROWTH BETWEEN 1995 AND 1999

Of all the issues associated with the detention population, its significant growth between 1995 and 1999 caused the most concern. Even as more DOC beds were coming on line, the growth in the detention population exceeded all expectations.

Starting in the third quarter of 1995 the detention population began a four year period of unprecedented growth. By the third quarter of 1999, the detention population had almost doubled. On June 30, 1995, the detention population was 691 and by October 31, 1999 it was 1,378; an increase of 687 beds. The increase in the detention population appears to be counter intuitive because between 1996 and 2000, state-wide reported violent crime decreased 7.4 percent and Part I reported property crime decreased almost 17.6 percent.

Yet, whereas the decrease in reported violent crime has received significant media coverage, the large increase in illicit drug complaints has gone unnoticed. Between 1995 and 2000, illicit drug complaints increased from 6,745 to 10,552, a 56 percent increase. In part, as is shown later, this increase in drug crime has played an important role in the increase of the detention population.

The rapid detention population growth between 1995 and 1999 occurred in two relatively independent phases. The early growth period between 1995 and 1997 was caused largely by an increased number of administrative cases. During this first phase, the detention population increased by 301. The later growth period between 1997 and 1999 was caused more by an increase in accelerated admissions for assaults, drugs, robbery, and weapon cases than it was by administrative cases. During the second growth phase the detention population increased by 386.

First Phase of the Detention Population Growth: 1995 to 1997

During the first phase of rapid detention population growth, the growth was predominately caused by the rapid increase in administrative cases as opposed to criminal cases. Administrative cases largely consist of persons detained for violations of probation or a *capias*. A *capias* for an arrest is generally issued for a failure to appear at a court hearing while a person is released from detention on personal recognizance or bail. A *capias* can also be filed when the person on release from detention violates other conditions of their release, or violates a probation.

During the first phase of the detention population growth, administrative detentions make up 56 percent of the total increase (169 of the 301). Drug and weapon admissions, were secondary causes of the increase. The drug offender population increased by 70 offenders and the weapon offender population increased by 29. Together, administrative detentions and detentions for drug and weapons offenses make up 89 percent of the population growth between 1995 and 1997.



The impact of administrative detentions during the first phase of the detention population increase appears to be caused by an accumulation of evolving policies that resulted in closer surveillance of offenders on community supervision. As Chart 3 shows, the increased number of administrative admissions was a trend that started with SENTAC alternative sentencing in late 1987 and was enhanced thereafter by new programs dealing primarily with addicted and violent offenders. The following chronology of events depicts the association between significant policy changes and the increase in the “administrative” detention population.

-
- ❑ In 1986, the last full year before SENTAC, the administrative detention population averaged 53;
 - ❑ Between the fourth quarter of 1987 and the second quarter of 1991, the early phases of SENTAC, the administrative detention population reached an average of 114;
 - ❑ In the third quarter of 1991, Department of Correction instituted their new SENTAC probation policies. By the second quarter of 1993, the administrative detention population reached an average of 150;
 - ❑ In the third quarter of 1993, the Drug Court was initiated in New Castle County. By the second quarter of 1995, just before it went statewide, the administrative detention population reached 182;
 - ❑ Fast Track commenced during the same time period as New Castle County Drug Court and cannot be separated from the effects of the drug court;
 - ❑ In the third quarter of 1995, the drug court was established statewide. By the third quarter of 1996, the administrative detention population reached an average of 225;
 - ❑ In 1997, Crest and Crest Aftercare expanded significantly, and Operations Safe Streets in Wilmington and Boot Camp Aftercare Intensive Supervision were initiated. The combination of these policy initiatives was accompanied by an average administrative detention population of 342 by late 1997;
 - ❑ When Operation Safe Streets went statewide in 1999, the administrative detention population reached an average of 370 with the peak being 387 in the fourth quarter of 1999.
-



This chronology makes it appear as though each new policy initiative had a direct impact on the administrative population. In part, this is probably true. Yet it cannot be discounted that while one policy was introduced, earlier policy initiatives increased or decreased of their own accord or in an interaction with each other. For instance, while more recent community supervision polices were being initiated, it is possible that a general expansion of violations continued from the original implementation of SENTAC and from alternative programs initiated earlier.

Each of these “new” policies highlighted a new rationale for increased community surveillance that resulted in more probation violations and subsequent detentions. For example, SENTAC introduced much closer surveillance for offenders who had been sentenced to alternatives to incarceration or that had “flowed down” from Level V incarceration to Level IV halfway house and home confinement and/or Level III intensive supervision.

Failing a drug test and not participating in drug treatment became behavior that was much more closely scrutinized under the statewide Superior Court Drug Court. With “Fast Track,” offenders on probation who committed new crimes were immediately violated, detained, and sentenced, some to incarceration. When the violation of probation and new crime could not be resolved together, a fast track case would be involved in a separate prosecution for the new crime that initially led to the violation of probation, and a contested violation of probation hearing would be held.

Operation Safe Streets raised the surveillance level for targeted probationers that had a history of violence and the use of deadly weapons. With Operation Safe Streets, a failed curfew initiated the issuance of an emergency capias which was often followed by a search for the missing violator by a special police and probation officer team. In addition to targeted offenders, Operation Safe Streets also had the tendency to result in collateral arrests and in some cases subsequent detentions for these “collateral” arrestees. A collateral arrest occurred when associates involved with the target Operation Safe Street clientele were found to be involved in illegal activity or, on questioning, were found to have an outstanding warrant or capias.

Illicit drug use has also had a confounding effect on the detention population. The proliferation of drug crimes and use of illicit drugs have changed the justice system in Delaware in profound ways. Programs have been developed to address substance abuse in the offender population, and closer surveillance associated with these programs has increased the likelihood that continued drug use would be detected and addressed. Substance abuse represents a powerful undercurrent that permeates justice policy. It is a major cause of the seeming relentless growth in correctional populations.

Second Phase of Rapid Detention Population Growth: 1997 to 1999

The second phase of rapid detention population growth between 1997 and 1999 was noteworthy because it was only minimally impacted by the increase in administrative cases. After 1997, the long-term trend of an increasing administrative detention population seems to have, for the most part, stabilized. Between 1997 and 1999, the administrative detention population only increased by 60. This accounts for only 15.5 percent of the phase two detention population growth of 386.

On the other hand, detention admissions for new crimes during the second phase of rapid population growth accounted for 326 of the 386 extra detained persons. Of this increase, only four crimes accounted for most of the increase. Assaults, drug offenses, robberies and weapon cases account for 72 percent of the increase in the detention population. The processes by which “new crimes” impacted the detention population are complex. The changes related to drug crimes are used as an example to help explain these processes.

New Drug Arrests

Chart 5 shows a steady increasing trend for drug arrestees. In part the rapid increase is related to the significant increase in illicit drug complaints in the late 1990's. For instance, there were an estimated 610 adult illicit drug arrests in the second quarter of 1995, 623 in the first quarter of 1997, and by the third quarter of 1999 this count had increased to 792. Between 1995 and 1999 arrests for drug crimes increased by 30 percent (Crime in Delaware 2000 p. 44).

Drug Crime Detention Admissions

Admissions for drug crimes are compared for 1995, 1997 and 1999. In the second quarter of 1995 there were 218 persons admitted to detention for a drug crime. By the first quarter of 1997, there were 258, and by the third quarter of 1999, there were 411. The number of drug crime detainees between 1995 and 1999 increased by 88 percent.

Judicial Decision to Detain Drug Arrestees

The increase in the number of arrests, although an important factor, does not in itself explain the increase in the drug detention population. At the same time that the number of drug arrests were increasing, the probability that a person would be held in detention for a drug crime also increased. This is referred to as the judicial decision to detain. In 1995, 36 percent of the drug arrests appeared as drug detentions. The percent of drug arrestees detained increased to 41 percent in 1997 and then to 52 percent in 1999. As a crude measure, in 1995, 36 out of 100 drug arrestees were detained. By 1999, the probability of being detained increased to 52 out of 100. The reasons for this are complex, but may include more chronic drug use, lengthier criminal histories, failure to comply with court orders and increased Operation Safe Streets surveillance.

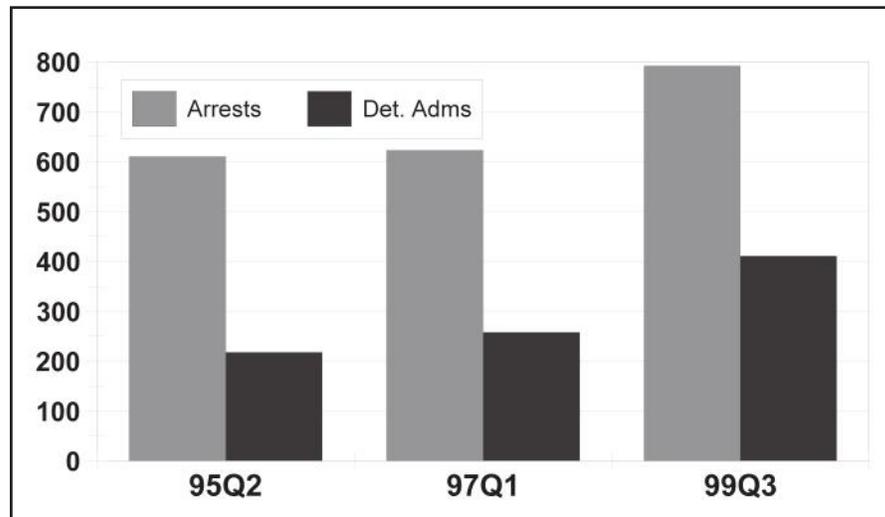


Although violent crime has gone down, drug crimes continue to increase.



Chart 5

Drug Arrests Versus Detention Admissions

*Drug Detainee Length of Stay—Time Detained*

Time detained also played a role in the growth of detention of drug cases. Between 1995 and 1997, the average time detained increased from about 39 to 46 days and thereafter, despite fluctuating, continued to average about 46 days through 1999.

The detention population for drug crimes increased from 63 in 1995 to 202 in 1999.

Increasing drug arrests, increasing probability of being detained once arrested, and increasing lengths of time detained all contributed to the detention population increase. A 10 percent increase in any of these determinate factors would each result in a 21 percent detention population increase. The different levels of change for these determinate factors, however, are not equal. Increases in the percent of arrestees detained appears to account for the largest portion of the change in the detained drug population at about 43 percent. Changes in arrests appear to account for 31 percent and the changes for time detained account for about 26 percent of the increase in the detained drug population.

In addition to drug crimes, assaults, robberies and weapon crimes also had significant growth in the second phase of the rapid detention population increase. A difference between drugs and the other crimes is that the population growth was steady for drugs, occurring in both the early and late periods of detention population growth. Assault, robbery, and weapon crimes growth occurred primarily during the second phase.



Phase Two: Impact of Assaults

Assault arrests increased very little from the first quarter of 1997, 412est. to 427est. the third quarter of 1999. The probability of detention for assaults however, increased from 61 percent in 1997 to 90 percent in 1999. Time detained for assaults also increased from 18 to 27 days between 1997 and 1999. The combination of increased probability of being detained once arrested, and the increase in the length of stay resulted in the assaults detention population increasing from 61 to 118. (Note: quarterly arrests are estimates based on State Bureau of Identification annual data: estimates are used because quarterly data are not available.)

Phase Two: Impact of Robberies

It is interesting to note that for reported robbery, the number actually decreased between 1997 and 1999 by 16 percent. At the same time however, robbery arrests actually increased a little. In the first quarter of 1997 there were an estimated 96 robbery arrests and in the third quarter of 1999 there were an estimated 112. This indicates a higher percentage of cases being cleared by arrest in the late 1990s. The relationship between reported robberies and arrest for robberies points out a flaw in assuming that a decrease in reported crime should result in a decrease in DOC detention populations. In this case, even a double digit decrease in reported crime did not offset the increase in the probability of being arrested.

The probability of detention for robbery increased from 62 percent in 1997 to 91 percent in 1999. Time detained for robbery also increased from 80 to 100 days between 1997 and 1999. The combination of increased arrests, increased probability of being detained once arrested, and the increase in the length of stay resulted in the robbery detention population increasing from 66 to 114.

Phase Two: Impact of Weapon Crimes

Arrests and detentions for weapon crimes do not line up well in criminal justice databases. In many cases a crime involving a firearm or dangerous weapon does not show up as a weapon crime because it will be counted as a robbery, an aggravated assault or another violent crime. "Person Prohibited," that is, a prior felon in possession of a firearm, is the most likely charge to show up as a reason for detention. The person prohibited counts are associated with the number of persons picked up on a capias, violation of probation or a minor offense who are found to be in possession of an illegal firearm.

In 1995, 406 weapon cases led to detention. In 1997, 611 weapon cases led to detention, and in 1999 there were 751 weapon case detentions. The near doubling of weapon case admissions contributed to the growth in the detention population, but so did the increasing amount of time detained. In 1997, the average time detained for a weapon case was 43 days. By 1999, the average time detained for weapon cases increased to 56 days. The combination of an increase in the number of weapon case admissions to detention and the increase in the length of stay resulted in an increase in the weapon detention population from 70 to 129. This increase in detentions for weapon cases has been paralleled by a subsequent 60 percent increase between 1996 and 2000 for convictions for possession of a firearm by a person prohibited (DeISAC July 30, 2001).

Length of time detained for serious crimes has increased, but this increase has been offset by reductions in length of stay for administrative holds.



SHARP DECREASE IN THE DETENTION POPULATION GROWTH IN 2000

After October 31, 1999 the detention population decreased rapidly, from 1,378 to 1,046 on December 31, 2000 (a 24 percent decrease). Again, reported crime does not appear to be strongly linked to the change in the detention population. Reported violent crimes decreased only 2 percent between 1999 and 2000 and Part I Property crime decreased by 4.3 percent.

While the detention population remained stable or increased for homicides, sex offenses, robberies and DUIs in 2000, it decreased for all other types of crime and for administrative populations. The decrease in the administrative populations of 180 explains half of the population decrease. Drugs, assaults, burglaries and weapon cases explain most of the remaining decrease. The reasons for this detention population decrease in 2000 are not well understood. The detention “blitz” did not take place until the first quarter of 2002 and therefore it is dismissed as a cause of the decrease.

Decrease in the 2000 Detention Population: Changes in Operation Safe Streets Activity

One possible reason for the decrease in the 2000 detention population may be due to a decrease in Operation Safe Streets (OSS) activity in Wilmington. This seems to make sense because the crimes and administrative activity associated with OSS are the same categories of crime (drugs, weapons, and assault) that declined during the 2000 detention population decrease.

In 2000, the number of Wilmington OSS arrests decreased by 28 percent: from 452 in 1999 to 331 in 2000. It would appear that part of the 2000 detention population decrease may be associated with a decrease in Wilmington OSS activity. This conclusion, however, is not verified by statewide OSS results which remained stable between 1999 and 2000. In 1999 there were 1,995 OSS arrests and in 2000 there were 2,007. Increases in OSS arrests in Dover and Sussex County offset the decreases in Wilmington, New Castle and Kent Counties (Operation Safe Streets/Governors Task Force, DelSAC September, 2001).

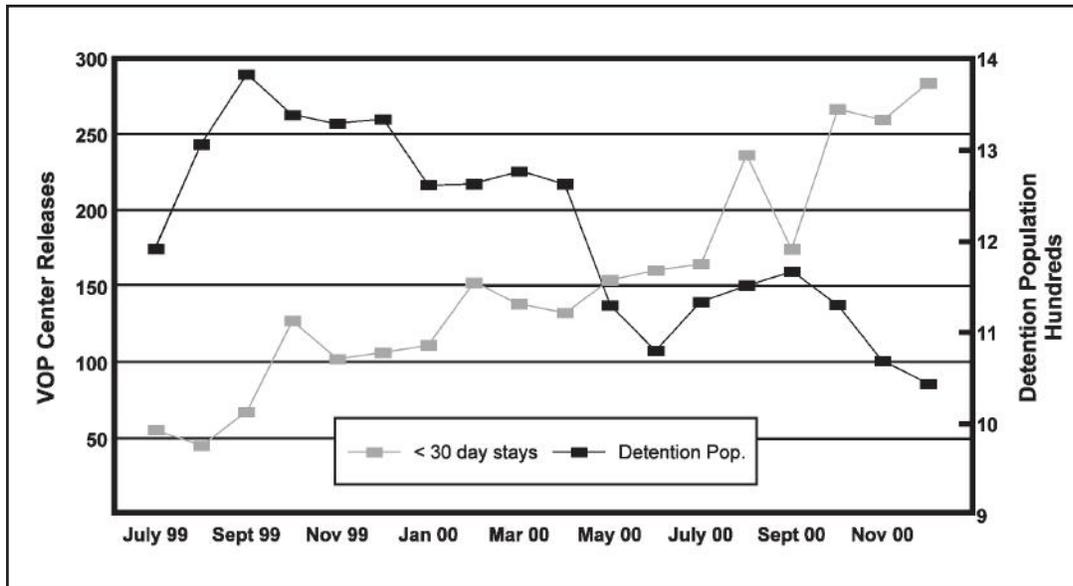
Because statewide OSS arrests remained stable, local variations in arrests related to OSS activity during this time frame probably did not contribute to overall changes in the detention population.

A difficulty for the analysis of OSS program is that there is insufficient information that would indicate which percentage of OSS arrestees were actually detained and for how long. A better understanding is needed to link the OSS street activities to the detention and the sentenced DOC populations.



Chart 6

**DOC Institution 12 Releases Versus Detention Population
Sussex VOP Center: Opens September 1999**



Decrease in the 2000 Detention Population:

Opening the Sussex Violation of Probation Center: Late 1999 and Early 2000

Another possible confounding factor for the 24 percent (332 bed) decrease in the detention population in 2000 was the opening of the Sussex Violation of Probation Center (Sussex VOP Center) in September 1999.

It is worth noting that the decrease in the detention population between last quarter of 1999 and December 2000 coincided with the Sussex VOP Center phase-in (See Chart 6). DOC’s mainframe computer records do not distinguish between the Sussex VOP Center and Sussex Work Release Center (both are identified as Institution 12). Chart 6 displays Institution 12 releases and the total detention population illustrating inverse relationship between the two.

Admittees to the Sussex VOP Center initially included many sentenced Level IV offenders held at Level V. Some of these Level IV offenders, although actually housed at Level V, were still shown on the computer files (because of slow record update procedures) as detainees. As these offenders moved from Level IVs held at Level V to Level IV Sussex VOP Center, and the records were updated, the detention count because of more accurate record keeping gave the appearance of decreasing and more accurately representing the number of persons detained.



As 2000 progressed, more of the Sussex VOP Center admittees were reported to be probation violators. Many of these violators were admitted to the Sussex VOP Center on an emergency *capias* (also referred to as an administrative warrant). These cases are quickly scheduled for a court review, which resulted in short detention stays prior to serving their Level IV sentence at the Sussex VOP Center. These Sussex VOP Center detentions may have spent less time in detention status because of expedited case hearings, resulting in a reduction in the overall detention population.

The Sussex VOP Center population reached 169 by the end of 1999 and appeared to reach its normal operating level of 230 in the third quarter of 2000. While possibly contributing to the decrease in the detention population the shift of offenders to the VOP Center cannot explain the full decrease in the 2000 detention population.

***Decrease in the 2000 Detention Population:
Changes in DOC Pretrial Supervision Population***

Another possible confounding factor for the 24 percent (332 bed) decrease in the detention population in 2000 was the increase in the DOC Pretrial supervision population between December 1999 and June 2001. Increasing from a long term base of just over 300, the DOC Pretrial caseload rose to and fluctuated around 400 between December 1999 and June 2001. The Pretrial caseload peaked in December of 2000 at 568.

While the increase in the DOC Pretrial caseload is not large enough to explain all of the decrease in the detention population it was synchronized in timing and should be considered at least a partial reason for the decrease in the detention population in 2000. Simply put, as the DOC Pretrial caseload increased the detention population decreased.

Likewise when the DOC Pretrial caseload started to decrease (from 500 to 300) in July of 2001 the detention population was again on the increase. By June of 2002 when the detention population had increased to over 1,200, the DOC Pretrial caseload reached a long time low of about 160.

A difficulty for the DOC Pretrial release program is that there is insufficient information that would indicate that defendants on the pretrial caseload were actually persons diverted from a detention bed and not people who may have been released on bail anyway. Although there may not be a one to one relationship between the size of the DOC Pretrial Detention Management Program and the detention population, the relationship over time between the DOC Pretrial population and the detention population cannot be discounted.



THE DETENTION POPULATION IS AGAIN ON THE INCREASE

Following the 24 percent decrease in 2000, the detention population has again increased. For instance, for a one day population snapshot on June 4, 2002, the detention population was 1,224. A number of factors are likely to have an impact on the detention population, now and in the future.

TOUGHER POLICING POLICIES

In 2002, newspaper articles have provided a series of stories regarding innovative methods such as the street corner “jump out squads” which were initiated in June of 2002 to apprehend illicit drug dealers. Arrest data from the CJIS Charge File shows that the number of arrests for FBI Part I (violent and serious property), Illicit Drugs, and other Part II (all other crimes) since 2000 increased from 5,853, to 6,275 in 2001, to an estimated 6,436 for 2002; a 10 percent increase. Most of the increase (583 since 2000) in the Wilmington arrests is associated with illicit drug crimes (+301). The increase in illicit drug arrests explains 52 percent of the increase in arrests since 2000. This increase in arrests has been achieved without an increase in manpower.

The increase in Wilmington arrests is likely associated with an increase in detention admissions. Only a significant reduction in the judicial decision to detain could offset this growth. As we have seen earlier in this study, however, the tendency has been for the judiciary to detain more often rather than less.

While Wilmington’s policing activities have put pressure on the detention population, this explains only part of the story. Although the media attention has focused on the increases in the City of Wilmington, the number of illicit drug arrests statewide excluding Wilmington numbers increased significantly too: from 4,881 in 2000 to an estimated 5,494 in 2002, an increase of 613.

The increase in illicit drug arrests in non-Wilmington law enforcement agencies since 2000 has been offset by a small decrease in Part I arrests (-77) and a larger decrease in Part II arrests (-580). In total, the non-Wilmington arrest activity between 2000 and 2002 (estimated) is just about even. However, there may still be some pressure on the detention population from non-Wilmington law enforcement agencies because drug arrests are more likely to lead to detention than other Part II crimes.



A number of factors are likely responsible for recent increases in the detention population.

SENTENCED TO TIME SERVED

“Sentenced to time served” cases result from an adversarial process where defendants after conviction are sentenced to the total amount of time they have already served in detention. There was a recent concern that an increase in this type of sentencing was related to inordinately long detention stays that had a significant adverse effect on the detention population. In 1996, there were 108 Superior Court convictions (there may be other cases from other courts) that resulted in a sentence to time served. By 1999, this type of sentence increased to 440.

Although the number of time served cases increased between 1996 and 1999, the impact on the detention population was small. In 1996 about one percent of the 11,235 detention admissions resulted in a time served sentence, compared to about 2.9 percent of the 15,364 in 1999.

Although the length of stay in detention associated with time served sentences is somewhat higher than the overall average length of stay, lengths of stay for time served sentences appear to correlate with the type of charge. The average time detained for a sentenced to time served case was 56.5 days, not quite double the average time detained of 28.9 days in 2000. While longer than the “average” detention case, the sentenced to time served cases were not very different from current time detained for robbery, drugs, sex, and weapon offense. About half of the non VOP cases involve a charge for one of these serious crimes. Also, many these cases involve extensive criminal histories.

Even if 35 percent of these offenders stayed for only 28.6 instead of 56.5 days there would only be about an 11 bed savings. While changes in trends associated with time served sentences may warrant continued monitoring, these sentences do not have a significant impact on the overall detention population.

CRIMINAL JUSTICE COUNCIL’S RESPONSIBLE RELEASE PROGRAM

On July 1, 2001 the Criminal Justice Council funded the Responsible Release Program (\$144,000 annually) with the purpose of matching community volunteers to help supervise and support Court of Common Plea detainees. Program eligibility requires a “relatively” non violent detention criminal charge, no violent criminal history, and no prior sex offense history. Bail amounts of less than \$5,000 are preferred and the defendant must be a resident of or employed in New Castle County. Bail is not paid by the program.

In the first year of operation 154 defendants had been released on the program. In July of 2002, 19 defendants were in the program, indicating the possibility of a small bed savings. As with the DOC Pretrial release program, there is insufficient information that would indicate that defendants in the Responsible Release Program pretrial caseload were actually persons diverted from a detention bed and not someone who may have been released on bail anyway.



SUPREME COURT SPEEDY TRIAL STANDARDS

On July 11, 2001 the Delaware Supreme Court of Delaware issued Administrative Directive Number 130 which sets new standards for the processing of cases (capital murder case standards are addressed under a separate directive). The courts must implement these standards within one year of the date of the directive (two years for the Family Court). The new standards direct that:

- ❑ 90 percent of all Superior Court criminal cases shall be adjudicated within 120 days from indictment,
- ❑ 90 percent of all Family Court adult and juvenile criminal and delinquency cases shall be adjudicated within 45 days of filing of the information,
- ❑ All Court of Common Pleas cases shall be adjudicated with 90 days of the filing of the information.

Under the guidelines, there are certain exclusions to speedy trial rules. The period of time that a defendant fails to appear at his court hearing after a capias for his arrest has been issued and date the capias is executed, the time it takes to prepare a presentence investigation, the time involved in a mental examination while a defendant is incompetent to stand trial, and time it takes to file a nolle prosequi after the trial date are all excluded from the speedy trial time calculations.

According to the directive, cases that have not been processed in a timely fashion shall be given priority status on the criminal calendar, and if the defendant is detained, preference over the civil case calendar.

Since most defendants are not detained for periods of time greater than the new speedy trial rules, it is not expected that these new Court directives will have a major impact on the detention population. There may be a small beds savings as the few slow cases are given priority scheduling on the court calendars.

DETAINING REPEAT VIOLENT OFFENDERS: HB 438

On July 8, 2002 Governor Minner signed House Bill Number 438 into law as Title 11 § 2116. This new law requires the detention of an accused violent felon who allegedly commits a subsequent violent felony after he had been granted a secured release from detention on the first charge.

This new law is likely increase the use of detention beds although persons who commit two violent felonies are likely to be sentenced to incarceration with their sentence offset by credit for time detained. The extent of this impact cannot be effectively determined because the criminal justice computer systems do not provide comprehensive or accurate enough information to readily conduct such an analysis. An impact analysis of this new law is feasible, but it would be a large enough study to require a shift in research priorities.



Subsequent to the signing of the bill, conflicting opinions have arisen regarding the detention bed impact. Some believe that detaining alleged repeat violent offenders would have little detention bed impact because current practice is closely aligned with the requirements of the new law. That is, it is believed that currently a violent offender on bail who is arrested for a new violent crime is, in most cases, thereafter detained until the case is concluded.

Others believe that there will be a substantial impact on the use of detention beds that would be primarily caused by the “re-detention” of persons arrested for crimes such as possession with the intent to deliver illicit drug and possession of illicit drugs within the vicinity of a school or park which are fairly low-level felony drug offenses that are defined as violent crimes under Delaware law.

Furthermore, this new law has the potential of reducing the likelihood of bail being obtained for initial violent felony cases because of its required forfeiture of the bail previously posted if re-arrested for a second violent felony. To the extent that this occurs, the time detained for violent felony cases could increase substantially.

PROJECT SAFE NEIGHBORHOODS

Project Safe Neighborhoods is a federal Department of Justice program that aims to decrease firearm violence by aggressively prosecuting firearm cases. This program includes three major components: public education regarding the consequences of illegal use of firearms, improved coordination of law enforcement agencies regarding firearm cases, and more effective case review through a coordinated effort by the state Attorney Generals and the U.S. Attorneys. When tougher federal laws can be used, cases heretofore processed in state courts will be prosecuted in federal courts. While these cases are in federal courts, the defendants can be detained in state facilities. The risk of tougher sentences for defendants may result in longer pre-adjudication detention stays.



RECOMMENDATIONS

Although the findings in this report do not lend themselves to a single strategy or “quick fix” to reduce the detention population, a number of activities could improve the management of this population as well as control its growth. They include:

1. Support the ongoing analysis of the detention population. This report documents considerable volatility in this population that has heretofore not been thoroughly analyzed. The State should not be in the position of reacting to substantial fluctuations in this population when some changes are clearly related to larger justice system policy or program changes. When conducting policy or legislative analyses, the impact on the detention population should be included.
2. Compile an inventory of existing programming aimed at the detention population and thoroughly analyze the operations, impact, and effectiveness of these programs. Based on these analyses, a coordinated and accountable system of services to provide options to pretrial or administrative detention should be developed.
3. Review the effect of defining most drug felonies as “violent” crimes, and make recommendations for change as necessary.
4. Improve methods of advocacy for the detained population, including:
 - A. Enhance and upgrade the records staff at DOC to improve the review of commitments and flag problem cases. Paralegal staff could provide considerable assistance.
 - B. Encourage more meaningful bail reduction and dismissal motions and more responsiveness to these requests.
 - C. Support the sharing of information gathered at all stages in the justice process (including information from treatment, risk/needs, and other assessments) with the Courts to facilitate efficient bail setting and effective sentencing practices.
5. Conduct a thorough analysis of the population of offenders detained for Violations of Probation, including a review of current policies and procedures related to VOPs as part of the scheduled study of the VOP population to be conducted by the SENTAC Sentencing Research Committee. Examine strategies for improving the management of the VOP population, including the enhancement of VOP standards and protocols, and the creation of a Violation of Probation Court.
6. Continue to monitor changes in the detention population, including age and type of criminal activity and history.



7. Carefully monitor the detention trends of serious offenders, particularly in light of Operation Safe Streets, Project Safe Neighborhood (the federal firearms control project), and HB 438.
8. Establish expedited case management for drug and weapons cases, as these cases do not generally require victim impact statements, complex witness input, or other information that requires extensive time to gather. No new resources would be required to move these cases more quickly.
9. Analyze the cost effectiveness of using capiases to collect small amounts of money and establish a cost effectiveness threshold to place limits on detaining people only for financial obligations.
10. Support the further development and implementation of effective correctional and court management information systems (MIS) to allow for ongoing analysis of detention and other population trends.

APPENDIX A



TIME DETAINED PATTERNS

The following pages provide frequency distributions that show the rate by which detainees are released. The title of each frequency distribution shows the type of offender being tracked to release. Release patterns are shown by count and percentage by the number of days detained. For instance, the first frequency distribution shows that in 2000 16,115 defendants were released from detention. Within three days, 4,524 defendants or 28 percent had been released. By 120 days, 94.4 percent of detentioners had been released, and by one year 99 percent of the defendants had been released.

On the first page, detention release frequency distribution summaries are provided for administrative acts (which include violation of probations, defendants returned to detention for a *capias* or contempt) and new crimes. The pages following provide detention release frequency distributions for 15 categories of crime and administrative release. The abbreviations for categories include:

C/CT	Capias or Contempt
PROB	Violation of Probation or Parole
FUGITIVE/FEDERAL	Non-State Holds
OTHER	Violations for release, Failing to register as a sex offender and criminal nonsupport
ASLT	Assault
BURG	Burglary
DRUG	Illicit Drug Crimes (Title 16)
DUI	Driving Under the Influence
FRAU	Fraud
HOMI	Homicide
MISC	
ROBB	Robbery
SEX	Sex Offenses
THEF	Theft
TRAFF	Title 21 non DUI traffic offenses.
WEAP	Weapon offenses (where a lead charge)

ADULT DETENTION IN DELAWARE: ISSUES AND IMPLICATIONS



TOTAL- 16,115 DETAINED RELEASES IN 2000

Days	Cnt	Cum Cnt	Pct	Cum Pct
<3	4524	4524	28.07%	28.07%
>=3 and <7	3159	7683	19.60%	47.68%
>=7 and <14	2139	9822	13.27%	60.95%
>=14 and <30	2734	12556	16.97%	77.91%
>=30 and <60	1587	14143	9.85%	87.76%
>=60 and <90	656	14799	4.07%	91.83%
>=90 and <120	414	15213	2.57%	94.40%
>=120 and <180	429	15642	2.66%	97.06%
>=180 and <365	363	16005	2.25%	99.32%
>=365	110	16115	0.68%	100.00%

Total includes administrative acts and crime, but excludes 27 local ordinances or unknown statutes.

ADMINISTRATIVE ACTS- 6831 DETAINED RELEASES IN 2000

Days	Cnt	Cum Cnt	Pct	Cum Pct
<3	1607	1607	23.53%	23.53%
>=3 and <7	1423	3030	20.83%	44.36%
>=7 and <14	1051	4081	15.39%	59.74%
>=14 and <30	1666	5747	24.39%	84.13%
>=30 and <60	704	6451	10.31%	94.44%
>=60 and <90	186	6637	2.72%	97.16%
>=90 and <120	95	6732	1.39%	98.55%
>=120 and <180	59	6791	0.86%	99.41%
>=180 and <365	33	6824	0.48%	99.90%
>=365	7	6831	0.10%	100.00%

Administrative acts includes capias/contempt, violation of probation/parole, federal/fugitive, and other.

CRIME- 9284 DETAINED RELEASES IN 2000

Days	Cnt	Cum Cnt	Pct	Cum Pct
<3	2917	2917	31.42%	31.42%
>=3 and <7	1736	4653	18.70%	50.12%
>=7 and <14	1088	5741	11.72%	61.84%
>=14 and <30	1068	6809	11.50%	73.34%
>=30 and <60	883	7692	9.51%	82.85%
>=60 and <90	470	8162	5.06%	87.91%
>=90 and <120	319	8481	3.44%	91.35%
>=120 and <180	370	8851	3.99%	95.34%
>=180 and <365	330	9181	3.55%	98.89%
>=365	103	9284	1.11%	100.00%

Crime includes assault, burglary, drug, dui, fraud, homicide, miscellaneous(excluding administrative acts), robbery, sex, theft, traffic, and weapon.

ADULT DETENTION IN DELAWARE: ISSUES AND IMPLICATIONS



C/CT- 2063 DETAINED RELEASES IN 2000

Days	Cnt	Cum Cnt	Pct	Cum Pct
<3	894	894	43.33%	43.33%
>=3 and<7	551	1445	26.71%	70.04%
>=7 and <14	183	1628	8.87%	78.91%
>=14 and <30	244	1872	11.83%	90.74%
>=30 and <60	115	1987	5.57%	96.32%
>=60 and <90	45	2032	2.18%	98.50%
>=90 and <120	13	2045	0.63%	99.13%
>=120 and <180	11	2056	0.53%	99.66%
>=180 and <365	4	2060	0.19%	99.85%
>=365	3	2063	0.15%	100.00%

PROB- 3954 DETAINED RELEASES IN 2000

Days	Cnt	Cum Cnt	Pct	Cum Pct
<3	473	473	11.96%	11.96%
>=3 and<7	646	1119	16.34%	28.30%
>=7 and <14	726	1845	18.36%	46.66%
>=14 and <30	1308	3153	33.08%	79.74%
>=30 and <60	527	3680	13.33%	93.07%
>=60 and <90	128	3808	3.24%	96.31%
>=90 and <120	73	3881	1.85%	98.15%
>=120 and <180	47	3928	1.19%	99.34%
>=180 and <365	22	3950	0.56%	99.90%
>=365	4	3954	0.10%	100.00%

FUGITIVE/FEDERAL- 463 DETAINED RELEASES IN 2000

Days	Cnt	Cum Cnt	Pct	Cum Pct
<3	104	104	22.46%	22.46%
>=3 and<7	134	238	28.94%	51.40%
>=7 and <14	116	354	25.05%	76.46%
>=14 and <30	52	406	11.23%	87.69%
>=30 and <60	37	443	7.99%	95.68%
>=60 and <90	7	450	1.51%	97.19%
>=90 and <120	5	455	1.08%	98.27%
>=120 and <180	1	456	0.22%	98.49%
>=180 and <365	7	463	1.51%	100.00%
>=365	0	463	0.00%	100.00%

ADULT DETENTION IN DELAWARE: ISSUES AND IMPLICATIONS



OTHER- 351 DETAINED RELEASES IN 2000

Days	Cnt	Cum Cnt	Pct	Cum Pct
<3	136	136	38.75%	38.75%
>=3 and <7	92	228	26.21%	64.96%
>=7 and <14	26	254	7.41%	72.36%
>=14 and <30	62	316	17.66%	90.03%
>=30 and <60	25	341	7.12%	97.15%
>=60 and <90	6	347	1.71%	98.86%
>=90 and <120	4	351	1.14%	100.00%
>=120 and <180	0	351	0.00%	100.00%
>=180 and <365	0	351	0.00%	100.00%
>=365	0	351	0.00%	100.00%

Other includes nonappearance, violating conditions of release, fail to register as a sex offender, and criminal nonsupport.

ASLT- 1468 DETAINED RELEASES IN 2000

Days	Cnt	Cum Cnt	Pct	Cum Pct
<3	583	583	39.71%	39.71%
>=3 and <7	258	841	17.57%	57.29%
>=7 and <14	179	1020	12.19%	69.48%
>=14 and <30	174	1194	11.85%	81.34%
>=30 and <60	126	1320	8.58%	89.92%
>=60 and <90	60	1380	4.09%	94.01%
>=90 and <120	27	1407	1.84%	95.84%
>=120 and <180	29	1436	1.98%	97.82%
>=180 and <365	26	1462	1.77%	99.59%
>=365	6	1468	0.41%	100.00%

BURG- 511 DETAINED RELEASES IN 2000

Days	Cnt	Cum Cnt	Pct	Cum Pct
<3	96	96	18.79%	18.79%
>=3 and <7	82	178	16.05%	34.83%
>=7 and <14	65	243	12.72%	47.55%
>=14 and <30	63	306	12.33%	59.88%
>=30 and <60	73	379	14.29%	74.17%
>=60 and <90	35	414	6.85%	81.02%
>=90 and <120	33	447	6.46%	87.48%
>=120 and <180	32	479	6.26%	93.74%
>=180 and <365	25	504	4.89%	98.63%
>=365	7	511	1.37%	100.00%

ADULT DETENTION IN DELAWARE: ISSUES AND IMPLICATIONS



DRUG- 1816 DETAINED RELEASES IN 2000

Days	Cnt	Cum Cnt	Pct	Cum Pct
<3	490	490	26.98%	26.98%
>=3 and <7	327	817	18.01%	44.99%
>=7 and <14	208	1025	11.45%	56.44%
>=14 and <30	206	1231	11.34%	67.79%
>=30 and <60	193	1424	10.63%	78.41%
>=60 and <90	112	1536	6.17%	84.58%
>=90 and <120	87	1623	4.79%	89.37%
>=120 and <180	105	1728	5.78%	95.15%
>=180 and <365	74	1802	4.07%	99.23%
>=365	14	1816	0.77%	100.00%

DUI- 472 DETAINED RELEASES IN 2000

Days	Cnt	Cum Cnt	Pct	Cum Pct
<3	249	249	52.75%	52.75%
>=3 and <7	81	330	17.16%	69.92%
>=7 and <14	44	374	9.32%	79.24%
>=14 and <30	39	413	8.26%	87.50%
>=30 and <60	27	440	5.72%	93.22%
>=60 and <90	14	454	2.97%	96.19%
>=90 and <120	8	462	1.69%	97.88%
>=120 and <180	7	469	1.48%	99.36%
>=180 and <365	3	472	0.64%	100.00%
>=365	0	472	0.00%	100.00%

FRAU- 643 DETAINED RELEASES IN 2000

Days	Cnt	Cum Cnt	Pct	Cum Pct
<3	170	170	26.44%	26.44%
>=3 and <7	159	329	24.73%	51.17%
>=7 and <14	90	419	14.00%	65.16%
>=14 and <30	85	504	13.22%	78.38%
>=30 and <60	70	574	10.89%	89.27%
>=60 and <90	23	597	3.58%	92.85%
>=90 and <120	21	618	3.27%	96.11%
>=120 and <180	17	635	2.64%	98.76%
>=180 and <365	8	643	1.24%	100.00%
>=365	0	643	0.00%	100.00%

ADULT DETENTION IN DELAWARE: ISSUES AND IMPLICATIONS



HOMI- 60 DETAINED RELEASES IN 2000

Days	Cnt	Cum Cnt	Pct	Cum Pct
<3	2	2	3.33%	3.33%
>=3 and<7	0	2	0.00%	3.33%
>=7 and <14	2	4	3.33%	6.67%
>=14 and <30	5	9	8.33%	15.00%
>=30 and <60	6	15	10.00%	25.00%
>=60 and <90	6	21	10.00%	35.00%
>=90 and <120	2	23	3.33%	38.33%
>=120 and <180	4	27	6.67%	45.00%
>=180 and <365	15	42	25.00%	70.00%
>=365	18	60	30.00%	100.00%

MISC- 1086 DETAINED RELEASES IN 2000 (EXCLUDES FED/FUGITIVE AND OTHER)

Days	Cnt	Cum Cnt	Pct	Cum Pct
<3	401	401	36.92%	36.92%
>=3 and<7	226	627	20.81%	57.73%
>=7 and <14	134	761	12.34%	70.07%
>=14 and <30	140	901	12.89%	82.97%
>=30 and <60	92	993	8.47%	91.44%
>=60 and <90	47	1040	4.33%	95.76%
>=90 and <120	13	1053	1.20%	96.96%
>=120 and <180	20	1073	1.84%	98.80%
>=180 and <365	7	1080	0.64%	99.45%
>=365	6	1086	0.55%	100.00%

ROBB- 381 DETAINED RELEASES IN 2000

Days	Cnt	Cum Cnt	Pct	Cum Pct
<3	42	42	11.02%	11.02%
>=3 and<7	31	73	8.14%	19.16%
>=7 and <14	37	110	9.71%	28.87%
>=14 and <30	38	148	9.97%	38.85%
>=30 and <60	36	184	9.45%	48.29%
>=60 and <90	28	212	7.35%	55.64%
>=90 and <120	31	243	8.14%	63.78%
>=120 and <180	54	297	14.17%	77.95%
>=180 and <365	67	364	17.59%	95.54%
>=365	17	381	4.46%	100.00%

ADULT DETENTION IN DELAWARE: ISSUES AND IMPLICATIONS



SEX- 282 DETAINED RELEASES IN 2000

Days	Cnt	Cum Cnt	Pct	Cum Pct
<3	59	59	20.92%	20.92%
>=3 and<7	33	92	11.70%	32.62%
>=7 and <14	21	113	7.45%	40.07%
>=14 and <30	28	141	9.93%	50.00%
>=30 and <60	24	165	8.51%	58.51%
>=60 and <90	10	175	3.55%	62.06%
>=90 and <120	15	190	5.32%	67.38%
>=120 and <180	27	217	9.57%	76.95%
>=180 and <365	45	262	15.96%	92.91%
>=365	20	282	7.09%	100.00%

THEF- 910 DETAINED RELEASES IN 2000

Days	Cnt	Cum Cnt	Pct	Cum Pct
<3	241	241	26.48%	26.48%
>=3 and<7	194	435	21.32%	47.80%
>=7 and <14	131	566	14.40%	62.20%
>=14 and <30	138	704	15.16%	77.36%
>=30 and <60	116	820	12.75%	90.11%
>=60 and <90	48	868	5.27%	95.38%
>=90 and <120	22	890	2.42%	97.80%
>=120 and <180	13	903	1.43%	99.23%
>=180 and <365	5	908	0.55%	99.78%
>=365	2	910	0.22%	100.00%

TRAF- 792 DETAINED RELEASES IN 2000

Days	Cnt	Cum Cnt	Pct	Cum Pct
<3	399	399	50.38%	50.38%
>=3 and<7	215	614	27.15%	77.53%
>=7 and <14	71	685	8.96%	86.49%
>=14 and <30	63	748	7.95%	94.44%
>=30 and <60	30	778	3.79%	98.23%
>=60 and <90	11	789	1.39%	99.62%
>=90 and <120	0	789	0.00%	99.62%
>=120 and <180	3	792	0.38%	100.00%
>=180 and <365	0	792	0.00%	100.00%
>=365	0	792	0.00%	100.00%

ADULT DETENTION IN DELAWARE: ISSUES AND IMPLICATIONS



WEAP- 863 DETAINED RELEASES IN 2000

Days	Cnt	Cum Cnt	Pct	Cum Pct
<3	185	185	21.44%	21.44%
>=3 and <7	130	315	15.06%	36.50%
>=7 and <14	106	421	12.28%	48.78%
>=14 and <30	89	510	10.31%	59.10%
>=30 and <60	90	600	10.43%	69.52%
>=60 and <90	76	676	8.81%	78.33%
>=90 and <120	60	736	6.95%	85.28%
>=120 and <180	59	795	6.84%	92.12%
>=180 and <365	55	850	6.37%	98.49%
>=365	13	863	1.51%	100.00%

APPENDIX B



DELAWARE CAPIAS ACTIVITY

In March of 2000, at the request of the Attorney General's Office, the Delaware Statistical Analysis Center prepared crosstabulations for each type of court by each type of capias in 1999.

The first crosstabulation, *Summary: 1999 Capias Issuance by Court*, provides a more general view of capias activity because like categories are collapsed into a single general category. For instance, all twenty different coded for "failure to appear" (FTA) are combined into the single code 53 FAILURE TO APPEAR. This shorthand method for examining capias activity shows that "failure to pay" (FTP) is the most frequently issued capias: 30,802, just about half of all capias issued. Almost two-thirds of the FTPs are issued by the Courts of Common Pleas. FTA is the second most frequently issued capias: 22,986. About half of the FTAs are issued by Courts of Common Pleas. The third most frequent capias issued is for violation of probation: 4,831. Most violation of probation capias are issued by Superior Courts.

The second crosstabulation, *Detailed: 1999 Capias Issuance by Court*, provides the expanded view of types of capias and the courts that issue them.

Court abbreviations used in the crosstabulations include:

AC	Alderman Courts
CCP	Courts of Common Pleas
FC	Family Courts
JPC	Justice of Peace Courts
SC	Superior Courts

ADULT DETENTION IN DELAWARE: ISSUES AND IMPLICATIONS



CODE	CAPIAS TYPE	AC	CCP	FC	JPC	SC	TOTAL ³
3	Violation of Probation	1	1,564	659	30	2,577	4,831
7	Breach of Release			1		44	45
8	Civil Contempt					273	273
9	Criminal Contempt		1	2		325	328
10	Detainer					5	5
11	Diversion		1			448	449
12	Emergency CAPIAS		1			3	4
13	Escape from Correctional Facility					65	65
51	Failure to Pay	1,251	19,992	64	9,491	4	30,802
52	Failure to Comply			1	64	10	75
53	Failure to Appear	464	10,398	6,099	3,705	2,320	22,986
54	Failure to Report		13			102	115
	TOTAL¹	1,716	31,970	6,826	13,290	6,176	59,978
50	Unspecified/Unclear CAPIAS	4	30	27	20	177	258
	TOTAL²	1,720	32,000	6,853	13,310	6,353	60,236

ADULT DETENTION IN DELAWARE: ISSUES AND IMPLICATIONS



Detailed: 1999 CAPIAS ISSUANCE BY COURT

CODE	CAPIAS TYPE	AC	CCP	FC	JPC	SC	TOTAL
1	FTA - Arrainment	2	5,114	1,476	2	633	7,227
2	FTA - Portion of Charge Listed	459		61	3,689	3	4,212
3	Violation of Probation	1	1,564	659	30	2,577	4,831
4	Unspecified/Other CAPIAS	3	16	19	19	39	96
5	FTA - No Specification		1	11		4	16
6	FTP - Portion of Charge Listed	1,251	19,901	14	9,490	4	30,660
7	Breach of Release			1		44	45
8	Civil Contempt					273	273
9	Criminal Contempt		1	2		325	328
10	Detainer					5	5
11	Diversion		1			448	449
12	Emergency CAPIAS		1			3	4
13	Escape from Correctional Facility					65	65
14	FTA - CAPIAS Return		98			146	244
15	FTA - Case Review		1,175	277		568	2,020
16	FTA - Jury Trial		91			18	109
17	FTA - Mediation			508			508
18	FTA - Non-Jury Trial		469				469
19	FTA - Non-Payment Hearing		9	5			14
20	FTA - Preliminary Hearing					173	173
21	FTA - Sentencing		119	78		80	277
22	FTA - Trial	1	3,321	909	3	74	4,308
23	FTA - Hearing on Support Arrears			2,726			2,726
24	FTA - Final Case Review					364	364
25	FTC - With Court Order/Sentence			1	3	10	14
26	FTR - To Correctional Facility		13			2	15
27	Level Four Reporting					100	100
28	FTA - Contempt of Court Hearing					122	122
29	FTA - Witness/Guardian			1		13	14
30	FTA - Miscellaneous	2	1	21	7	35	66
31	FTA - Civil Contempt Hearing					79	79
32	Portion of Charge Listed Only	1	14	8	1	138	162
33	FTA - VOP Hearing			4	4	8	16
34	FTC - DUI Program				61		61
35	FTA - Domestic Violence Interview			22			22
36	FTP - Restitution			50	1		51
37	FTP - Court Requests Cash Bail		91				91
TOTAL		1,720	32,000	6,853	13,310	6,353	60,236

NOTE:FTP - Failure to Pay FTC - Failure to Comply FTA - Failure to Appear FTR - Failure to Report



NOTES