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Auditor General DePasquale Urges Changes to Avoid Repeat of Magistrate's Error that Wrongly Gave People Criminal Records

Says courts across state need to provide clearer explanation of consequences

HARRISBURG – Auditor General Eugene DePasquale today announced a series of recommendations designed to keep district justices across Pennsylvania from giving people a criminal record for offenses that should be classified as civil violations, as happened in Erie County.

"I applaud the court system for its quick response to the miscarriage of justice in Erie County," DePasquale said. "I want to ensure that similar problems aren't taking place in the more than 500 other district justice offices across Pennsylvania."

DePasquale recently released an audit of the Erie County District Court 06-2-04, where a former district justice improperly filed criminal charges for theft of services in cases that should have been classified as civil complaints. The filing of a criminal charge avoided nearly \$100 in court filing costs which would have to be paid upfront in a civil action.

After discovering the problem, the newly elected district justice notified the Erie County court administration and the Administrative Office of Pennsylvania Courts, which oversees the state's district court system. She also informed the Pennsylvania Department of the Auditor General.

"The practice apparently had been going on for many years prior to my latest audit," DePasquale said. "As a result of it, thousands of defendants wound up with criminal records that they didn't deserve or even know about."

On August 5, Erie County's president judge announced that he had sealed nearly 3,000 civil cases that were misfiled as criminal cases.

"The public should be able to trust that judges are acting fairly and within the bounds of the law," DePasquale said. "No one should ever wind up with a criminal record because a judge handed out the wrong complaint form."

To avoid a repeat of the situation in other counties, DePasquale offered the following recommendations:

- The Administrative Office of Pennsylvania Courts (AOPC) should immediately conduct a review of district courts in every county to determine if this problem has occurred elsewhere;
- AOPC should strengthen the training required for magisterial district judges to clarify procedures around the correct handling of civil cases; and
- AOPC should strengthen and clarify the language appearing on charging documents to ensure defendants understand the difference between a criminal and civil complaint, and that pleading guilty to a criminal complaint will result in having a criminal record.

"In Erie County, the problem first came to light after a job applicant was stunned to learn that a pre-employment background check revealed a criminal record that he didn't even know existed,"

DePasquale said. "It's possible that many defendants simply pled guilty to the complaints without realizing the long-term repercussions of doing so."

DePasquale said that while sealing of the nearly 3,000 cases was a good first step, the court system should fully expunge the erroneous records at no cost to the individuals involved. Expungement ordinarily costs several hundred dollars.

Erie District Court 06-2-04 covers Corry, Elgin and Union City boroughs and Amity, Concord, Union and Wayne townships.

Review the [audit report for Erie County District Court 06-2-04](#) and learn more about the Department of the Auditor General online at www.PaAuditor.gov.

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Media contact: Gary Miller, 717-787-1381