

FOR IMMEDIATE RELEASE
November 10, 2017

**Advisory regarding Notices to Appear in criminal cases in the Court of
Common Pleas**

The Delaware Court of Common Pleas has learned that Notices to Appear in some criminal cases were not mailed. Delaware's Department of Technology and Information (DTI) – the state agency that handles the processing, printing and mailing of Court of Common Pleas criminal case notices – is investigating this issue. The Court of Common Pleas and the Judicial Information Center (JIC) – the technical support division of the Courts – contacted DTI about this issue after receiving complaints, prompting the investigation.

DTI has informed the Court that approximately 9,500 Notices to Appear for criminal cases were not mailed out between June 1, 2017 and October 3, 2017.

The 9,500 notices represent about 20 percent of the more than 46,000 criminal notices that were sent out by the Court of Common Pleas during that same period.

DTI's investigation regarding the root cause and the scope of this problem is ongoing. In the interim the following actions are being taken.

DTI has put into place additional measures to ensure that all Notices to Appear are being printed and mailed and since October 3 all notices have been printed and mailed.

The Court has identified the following potential scenarios that might have occurred as a result of this issue:

1. Defendants who were scheduled for court events and did not appear during this time period may have been issued a *capias* for failure to appear.
2. A case may have been dismissed by the Court under Criminal Rule 48(b) for a witness's failure to appear.
3. Individuals with *capiases* issued as a result of the notice failure may have been subject to arrest on the *capias* and required to post bond and to pay the associated \$20 *capias* fee.
4. Defendants who failed to appear may have been subject to driver's license suspension.

The Court is taking the following actions to address the affected cases that have been identified:

1. In traffic arraignment cases, where notice was not sent and a *capias* issued for the defendant's non-appearance, the Court is withdrawing these *capiases* and rescheduling the cases to an upcoming arraignment calendar.
2. In criminal cases, where notice was not mailed to the defendant and the defendant did not sign for in-person notice, the Court will withdraw the *capias* and reschedule the case.
3. In criminal cases where notice was not mailed but there is a signed bond order or the defendant signed for notice in Court, the *capias* will remain active.
4. In all cases, where a *capias* has already been returned by the Court and notice was not provided and a *capias* fee was assessed, the *capias* fee will be refunded or credited back to the defendant.

5. In cases where an individual's drivers license was suspended as a result of non-appearance and a notice was not provided, the Court will contact the Department of Motor Vehicles to have the license reinstated without cost.
6. In the event, that someone is incarcerated as a result of non-receipt of notice, the Court will immediately contact the Department of Correction to order the defendant's immediate release.
7. If you believe that you, as victim or witness in a criminal case, failed to receive proper notice and your case was dismissed, please go to the website set up by the Court of Common Pleas (<https://de.gov/notice>) to determine if your case was affected. Court staff will advise you and the Attorney General's Office if your case was affected.
8. If you believe that you, as a defendant in a criminal case, failed to receive proper notice and a capias was issued for your failure to appear, please go to the website set up by the Court of Common Pleas (<https://de.gov/notice>) to determine if your case was affected. Court staff will advise you and your attorney of record, if any, if your case was affected.
9. The Court of Common Pleas Judicial Staff are aware of the details surrounding this system failure and are addressing issues that come before them accordingly.
10. The Court is working to identify all of the cases and parties affected and to implement the actions provided above as soon as possible.

Should you have any questions or concerns, please contact the Court Administrator for the Court of Common Pleas, Stephanie Fitzgerald at 302-255-0870 or Stephanie.fitzgerald@state.de.us