

ATTESTATION ENGAGEMENT

District Court 02-3-09
Lancaster County, Pennsylvania
For the Period
January 1, 2009 to December 31, 2014

June 2016



Commonwealth of Pennsylvania
Department of the Auditor General
Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

Independent Auditor's Report

The Honorable Eileen H. McNulty
Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We have examined the accompanying statement of receipts and disbursements (Statement) of District Court 02-3-09, Lancaster County, Pennsylvania (District Court), for the period January 1, 2009 to December 31, 2014, pursuant to the requirements of Section 401(c) of *The Fiscal Code*, 72 P.S. § 401(c). The District Court's management is responsible for this Statement. Our responsibility is to express an opinion on this Statement based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included examining, on a test basis, evidence supporting the Statement and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

We are mandated by Section 401(c) of *The Fiscal Code* to audit the accounts of each district court to determine whether all moneys collected on behalf of the Commonwealth have been correctly assessed, reported and promptly remitted. *Government Auditing Standards* issued by the Comptroller General of the United States include attestation engagements as a separate type of audit. An attestation engagement performed pursuant to *Government Auditing Standards* involves additional standards that exceed the standards provided by the American Institute of Certified Public Accountants. Accordingly, this attestation engagement complies with both *Government Auditing Standards* and Section 401(c) of *The Fiscal Code*.

In our opinion, the Statement referred to above presents, in all material respects, the operations of the District Court as it pertains to receipts made on behalf of the Commonwealth for the period January 1, 2009 to December 31, 2014, in conformity with the criteria set forth in Note 1.

Independent Auditor's Report (Continued)

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Statement; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the Statement. We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether the Statement is presented in accordance with the criteria described above and not for the purpose of expressing an opinion on internal control over reporting on the Statement or on compliance and other matters; accordingly, we express no such opinions.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Statement will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over reporting on the Statement was for the limited purpose of expressing an opinion on whether the Statement is presented in accordance with the criteria described above and was not designed to identify all deficiencies in internal control over reporting on the Statement that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our engagement we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified. We did identify a deficiency in internal control, described in the finding listed below, that we consider to be a significant deficiency:

- Inadequate Arrest Warrant And DL-38 Procedures.

As part of obtaining reasonable assurance about whether the Statement is free from material misstatement, we performed tests of the District Court's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of Statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our engagement, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Independent Auditor's Report (Continued)

This report is intended solely for the information and use of the Pennsylvania Department of Revenue, the Administrative Office of Pennsylvania Courts, and the District Court and is not intended to be and should not be used by anyone other than these specified parties.

We appreciate the courtesy extended by the District Court 02-3-09, Lancaster County, to us during the course of our examination. If you have any questions, please feel free to contact Michael B. Kashishian, CPA, CGAP, CFE, Director, Bureau of County Audits, at 717-787-1363.

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

May 17, 2016

Eugene A. DePasquale
Auditor General

CONTENTS

	<u>Page</u>
Financial Section:	
Statement Of Receipts And Disbursements.....	1
Notes To The Statement Of Receipts And Disbursements.....	2
Finding And Recommendations:	
Finding - Inadequate Arrest Warrant And DL-38 Procedures	3
Report Distribution	10

DISTRICT COURT 02-3-09
LANCASTER COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2014

Receipts:

Department of Transportation		
Title 75 Fines	\$	231,588
Motor Carrier Road Tax Fines		338
Overweight Fines		9,472
Commercial Driver Fines		10,579
Littering Law Fines		50
Child Restraint Fines		250
Department of Revenue Court Costs		231,629
Crime Victims' Compensation Bureau Costs		36,166
Crime Commission Costs/Victim Witness Services Costs		25,882
Domestic Violence Costs		8,935
Department of Agriculture Fines		1,703
Emergency Medical Service Fines		79,063
CAT/MCARE Fund Surcharges		237,914
Judicial Computer System Fees		99,118
Access to Justice Fees		28,224
Criminal Justice Enhancement Account Fees		7,063
Judicial Computer Project Surcharges		35,111
Constable Service Surcharges		10,748
Miscellaneous State Fines and Costs		78,940
		<hr/>
Total receipts (Note 2)		1,132,773
Disbursements to Commonwealth (Note 3)		<hr/> <u>(1,132,773)</u>
Balance due Commonwealth (District Court) per settled reports (Note 4)		-
Examination adjustments		<hr/> <u>-</u>
Adjusted balance due Commonwealth (District Court) for the period January 1, 2009 to December 31, 2014	\$	<hr/> <u><u>-</u></u>

Notes to the Statement of Receipts and Disbursements are an integral part of this report.

DISTRICT COURT 02-3-09
LANCASTER COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2014

1. Criteria

The Statement of Receipts and Disbursements provides a summary of receipts and disbursements by category. The categories and the amounts of fines, costs, fees, and surcharges assessed are based on Pennsylvania laws and regulations.

The Statement was prepared in accordance with reporting requirements prescribed by the Pennsylvania Department of Revenue. Under this method, only the Commonwealth portion of cash receipts and disbursements are presented, revenues are recognized when received, and expenditures are recognized when paid.

2. Receipts

Receipts are comprised of fines, costs, fees, and surcharges collected on behalf of the Commonwealth. These fines, costs, fees, and surcharges represent collections made on traffic, non-traffic, civil, and criminal cases filed with the District Court.

3. Disbursements

Total disbursements are comprised as follows:

District Court checks issued to:

Department of Revenue	\$ 1,132,408
State Police	<u>365</u>
Total	<u><u>\$ 1,132,773</u></u>

4. Balance Due Commonwealth (District Court) For The Period January 1, 2009 To December 31, 2014

This balance reflects the summary of monthly transmittal reports as settled by the Department of Revenue.

5. Magisterial District Judge Serving During Examination Period

Jayne F. Duncan served at District Court 02-3-09 for the period January 1, 2009 to December 31, 2014.

DISTRICT COURT 02-3-09
LANCASTER COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2014

Finding - Inadequate Arrest Warrant And DL-38 Procedures

Warrants and Requests For Suspension Of Operating Privileges (DL-38s) are used to enforce the collection of monies on traffic and non-traffic cases in which defendants failed to make payments when required. A Warrant of Arrest (AOPC 417) is used to authorize an official to arrest a defendant, to collect fines and costs from the defendant after a disposition, or to collect collateral for a trial. If the defendant does not respond within ten days to a citation or summons, a Warrant of Arrest may be issued. A Request for Suspension of Driving Privileges for Failure to Respond to a Citation or Summons or Pay Fines and Costs Imposed (AOPC 638A) is used to notify the defendant in writing that his/her license will be suspended if he/she fails to respond to the traffic citation or summons. A DL-38 cannot be issued for a parking violation.

During our testing of warrant procedures, we noted that warrant procedures established by the *Magisterial District Judge Automated Office Clerical Procedures Manual* (Manual) were not always followed. The Magisterial District Judge did not consistently issue warrants when required. We tested 58 instances in which a warrant was required to be issued. Our testing disclosed that 17 were not issued timely and 33 were not issued at all. The time of issuance ranged from 89 days to 704 days.

In addition, of 25 warrants required to be returned or recalled, 4 were not returned or recalled, and 6 were not returned timely. The time of issuance to the time of return ranged from 241 days to 639 days.

Furthermore, we tested 36 instances in which a DL-38 was required to be issued. Our testing disclosed that 8 were not issued timely and 18 were not issued at all. The time of issuance ranged from 61 days to 328 days.

The Manual establishes the uniform written internal control policies and procedures for all district courts.

Warrant Issuance Procedures: The Manual states that on October 1, 1998, new warrant procedures took effect for summary cases. Amendments were made to Pa.R.Crim.P. Rules 430, 431, 454, 455, 456, 460, 461, and 462. To comply with the new changes, the Notice of Impending Warrant (AOPC A418) was created with the purpose of informing the defendant that failure to pay the amount due or to appear for a Payment Determination Hearing will result in the issuance of an arrest warrant. The defendant is also informed that his/her response must be made within ten days of the date of the notice.

DISTRICT COURT 02-3-09
LANCASTER COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2014

Finding - Inadequate Arrest Warrant And DL-38 Procedures (Continued)

According to Pa.R.Crim.P. Rule 430, a Notice of Impending Warrant may be issued in a post-disposition summary case for any of the following reasons:

- A guilty disposition is recorded and no payment is made or a time payment schedule is not created.
- A guilty disposition is recorded and a previously deposited collateral payment, when applied, does not pay the case balance in full.
- A guilty disposition is recorded and the defendant defaults on a time payment schedule.

According to Pa.R.Crim.P. 430, a warrant SHALL be issued in a summary case for any of the following reasons (a Notice of Impending Warrant is not necessary for the following):

- The defendant has failed to respond to a citation or summons that was served either personally or by certified mail, return receipt requested.
- The citation or summons is returned undeliverable.
- The Magisterial District Judge has reasonable grounds to believe that the defendant will not obey a summons.

Warrant Return Procedures: The Manual states that the Administrative Office of Pennsylvania Courts (AOPC) recommends that those in possession of arrest warrants should be notified to return warrants that have not been served. For summary traffic and non-traffic cases, outstanding warrants should be returned to the Magisterial District Judge's office within 60 days of issuance. Returned warrants can either be recorded in the Magisterial District Judge System (MDJS) as unserved, if the defendant is unable to be located; or they can be recalled for reissue, if the server has not exhausted all means of finding the defendant.

DL-38 Procedures: The Manual states that once a citation is given to the defendant or a summons is issued, the defendant has ten days to respond. If on the eleventh day, the defendant has not responded, 75 Pa.C.S.A. §1533 requires that the defendant be notified that he/she has fifteen days from the date of notice to respond to the citation/summons before his/her license is suspended. In accordance with Section 1533 of the Pennsylvania Vehicle Code, the defendant has 15 days to respond to the defendant's copy of the DL-38. If the defendant does not respond by the fifteenth day, the Magisterial District Judge's office shall notify the Pennsylvania Department of Transportation by issuing the appropriate License Suspension Request (AOPC 638B,D,E).

DISTRICT COURT 02-3-09
LANCASTER COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2014

Finding - Inadequate Arrest Warrant And DL-38 Procedures (Continued)

In addition, 75 Pa.C.S.A. §1533 also requires a post-disposition DL-38 (AOPC 638B/E) be issued if the defendant neglects to pay fines and costs imposed at the time of disposition, or fails to make a scheduled time payment.

The failure to follow warrant and DL-38 procedures could result in uncollected fines and unpunished offenders. Additionally, the risk is increased for funds to be lost or misappropriated.

Adherence to the uniform internal control policies and procedures, as set forth in the Manual, would have ensured that there were adequate internal controls over warrants and DL-38s.

Recommendations

We recommend that the district court review the tickler reports for warrants and DL-38s daily and take appropriate action as required by the Manual. We further recommend that the court review warrant control reports and notify police or other officials to return warrants that are unserved for 60 days for summary traffic and non-traffic cases as recommended by the Manual.

Management's Response

The Magisterial District Judge responded as follows:

Thank you for the opportunity to respond to the most recent audit of Magisterial District Court 02-3-09, for the period covering January 1, 2009 to December 31, 2014.

Herein, I will provide some background information, address the Written Finding: "Inadequate Arrest Warrant and DL-38 Procedures", and discuss changes to correct this deficiency.

I have had the privilege of serving as an MDJ since 1991. As I began my tenure, the office was staffed by 2 clerks with a long history of outstanding service. In the later part of the 1990's, our case numbers began to grow and a much needed 3rd clerk position was added. We maintained a solid record of efficiency and accuracy. It was a point of pride that we maintained a "no finding" audit history.

In 2008, one of our clerks retired. The County was experiencing financial hard times and requested that we reduce staff to 2.5 clerks. We agreed to replace the full time position with a part time position, with the understanding that we would be able to access the full time position in the event our numbers increased. From 2008 until April 4, 2016, we have been working with 2 or 2.5 clerks, in spite of repeated requests for additional assistance. Although we were understaffed, we continued to maintain high standards for accuracy and timeliness.

DISTRICT COURT 02-3-09
LANCASTER COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2014

Finding - Inadequate Arrest Warrant And DL-38 Procedures (Continued)

Management's Response (Continued)

Magisterial District Judge Response (Continued):

All credit for our success goes to the two clerks who have staffed the office during this time. Their commitment, integrity and pragmatism cannot be overstated. Our financial accounting has been accurate and reliable. Our compliance to all directives from the AOPC [Administrative Office of Pennsylvania Courts], has been exemplary. In any matter pertaining to specific practice and procedure we have an excellent record, thanks to the commitment of our staff.

I assume full responsibility for the most recent audit finding: Inadequate Arrest Warrant and DL-38 Procedures. Please note that I take the audit process most seriously. I believe that regular audits create an environment of transparency that allow our offices to operate freely in the knowledge that we are wholly compliant with respect to our financial obligations. We are a busy office, primarily due to the fact that we are understaffed. As a result of life events; surgery, health issues, we were often functioning at 1 or 1.5 clerks. Of necessity, we had to prioritize our tasks; "what must be done" often overshadows "what should be done". Although the county permitted 2 hours of overtime per week during a portion of this period, it was not enough to compensate for the lack of staff.

I am responsible for establishing the office priorities. First and foremost, fiscal accountability: daily deposits, monthly reports, receipts, and the like. As our audit reveals, we are above reproach with respect to the financials. Our second responsibility is our obligation to the public; phone calls, walk-ins, questions and problems. We are typically the public's first and only exposure to the court system, as such we have an obligation that extends beyond the walls of our office, to demonstrate that the system is both responsive and functioning. Our third responsibility is to be accurate and timely with respect to the work load; to receipt, schedule, and conclude all cases. Again, the audit results indicate that these tasks are completed in a timely and correct manner.

I believe that a careful scrutiny of our audit would indicate that the delay in issuing warrants and DL-38s is episodic in nature. When we are well staffed and functioning, we can stay on top of warrant/DL-38 issuance. However, during the period of time in question: 2009-2014, we had significant periods of time wherein we were not fully staffed. During these times it is impossible to do everything that must be done. At 1 or 1.5 clerks, you must prioritize the workload. I cannot, in good conscience, say for example that we should skip a daily deposit in order to issue DL-38s. I do not, in any way, seek to minimize the importance of warrant/DL-38 issuance. What I must stress however is that when there is not enough time or manpower to complete all of the required obligations, something has to be delayed.

DISTRICT COURT 02-3-09
LANCASTER COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2014

Finding - Inadequate Arrest Warrant And DL-38 Procedures (Continued)

Management's Response (Continued)

Magisterial District Judge Response (Continued):

[My staff] are intelligent, quick and dedicated. They come in early, they stay late, all without additional compensation. They produce a tremendous amount of work each day. It is not a question of saying they could do any more than they already do. I do not know how I would otherwise realign our priorities, I do not have control of the staffing issue.

I understand that this situation should not continue. Going forward I would point out that effective April 4, 2016, a third clerk began employment in our office. We are pleased to have her and optimistic that the additional staff will reduce, or eliminate the backlog of warrant/DL-38s. It is our hope to resolve this issue within the next few months.

As a practical matter, there are two obstacles to our short term success. First, the learning curve for a new hire means that it will take some time before she is fully productive. Second, we continue to maintain a high caseload, as of May 10, 2016, our office had the 3rd highest number of criminal cases for the 19 Magisterial District Courts in Lancaster County. In spite of these obstacles I believe that the next few months should demonstrate enhanced compliance with the warrant/DL-38 issuance directives.

Thank you for your kind attention. If you should have any questions or comments, please do not hesitate to contact me.

The President Judge also responded as follows:

Thank you for the opportunity to prepare and submit a statement from the Court with regard to the recent audit of Magisterial District Court 02-3-09 indicating a written finding of Inadequate Arrest Warrant and DL-38 Procedures for the time period of January 1, 2009 through December 31, 2014. During this period of time, your office identified 45 cases and 86 instances where the Magisterial District Court either did not issue a DL-38 timely or did not issue a DL-38 at all, did not issue a warrant at all or had warrants that were not issued timely, had warrants that were not returned or warrants that were not returned timely. These exceptions seem to have occurred on a fairly consistent basis during each year of the audit period.

DISTRICT COURT 02-3-09
LANCASTER COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2014

Finding - Inadequate Arrest Warrant And DL-38 Procedures (Continued)

Management's Response (Continued)

President Judge Response (Continued)

Please be aware that the Magisterial District Judge elected to serve this district has submitted a separate response to these audit findings and has taken full responsibility for the result. Additionally, the Magisterial District Judge has indicated that the next few months should demonstrate enhanced compliance with the Warrant and DL-38 directives.

In making a determination regarding staff to caseload ratio, many factors, such as the competency, level of staff, and longevity of staff must be taken into consideration. In the past, the Administrative Office of Pennsylvania Courts (AOPC) generally recommends a staff to caseload ratio of 1 staff person per 1,250 cases but in some instances could be as high as 1 staff person per 2,000 cases. Certainly, the staff of Magisterial District Court 02-3-09 have a very high competency level and would be expected to fall into the higher end of that broad spectrum.

During most of the audit period, the staff to caseload ratio of this Magisterial District Court has been one of the lowest in the county. In 2009, their staff to caseload ratio was 1,152, in 2010 it was 959, 997 in 2011, 992 in 2012, 1,229 in 2013 and in 2014 was 1,422. Additional staff was added to this Magisterial District Court in 2015. In each year of this audit period, the staff to caseload ratio of this Magisterial District Court has been within an acceptable range. Many of our Magisterial District Courts with higher staff to caseload ratios have done a remarkable job of meeting the Warrant and DL-38 directives of your office.

Presently, Magisterial District Court 02-3-09 has the lowest caseload of all our Magisterial District Courts in Lancaster yet reports generated by the Magisterial District Judge System (MDJS) indicate that performance deficiencies with regard to Warrant and DL-38 procedures continue. As a result of these deficiencies, effective May 13, 2016, Magisterial District Court 02-3-09 is under a directive issued by me to address these deficiencies within 30 days.

Thank you again for your patience, time and effort in helping to ensure that our Magisterial District Courts are compliant with the directives from the Administrative Office of Pennsylvania Courts (AOPC).

DISTRICT COURT 02-3-09
LANCASTER COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2014

Finding - Inadequate Arrest Warrant And DL-38 Procedures (Continued)

Auditor's Conclusion

Although we recognize the Magisterial District Judge's concerns about staffing, it is imperative that warrants and DL-38s are issued timely to enforce the collection of monies. We appreciate the efforts of the Magisterial District Judge and the President Judge to correct this issue. During our next examination, we will determine if the office complied with our recommendations.

DISTRICT COURT 02-3-09
LANCASTER COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2014

This report was initially distributed to:

The Honorable Eileen H. McNulty
Secretary
Pennsylvania Department of Revenue

The Honorable Thomas B. Darr
Court Administrator of Pennsylvania
Supreme Court of Pennsylvania
Administrative Office of Pennsylvania Courts

The Honorable Jayne F. Duncan
Magisterial District Judge

The Honorable Dennis Stuckey
Chairperson of the Board of Commissioners

The Honorable Brian Hurter, CPA
Controller

Mr. Mark M. Dalton
District Court Administrator

Ms. Linda Dale Hoffa
Dilworth Paxson LLP

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