

ATTESTATION ENGAGEMENT

District Court 52-3-04
Lebanon County, Pennsylvania
For the Period
January 1, 2010 to December 31, 2014

May 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 52-3-04, Lebanon County, Pennsylvania (District Court), for the period January 1, 2010 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*.

As discussed in Finding No. 1, there were case files that were missing and unavailable for examination. Due to these issues, we could not perform our standard examination procedures. As a result, our scope of our examination of the District Court's Statement was limited, and we were unable to satisfy ourselves by other examination procedures.

Independent Auditor's Report (Continued)

In our opinion, except for the effects, if any, of the matters in the preceding paragraph, 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, 2010 to December 31, 2014, in conformity with the criteria set forth in Note 1.

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.

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. However, as described below, we identified certain deficiencies in internal control that we consider to be material weaknesses.

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. We consider the deficiencies listed below to be material weaknesses:

- Missing Case Files.
- Escrow Monies Not Always Disbursed Timely.
- Inadequate Internal Controls Over Manual Receipts - Recurring.
- Inadequate Arrest Warrant And DL-38 Procedures - Recurring.

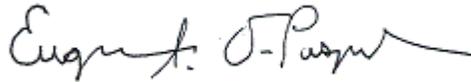
Independent Auditor's Report (Continued)

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*.

We are concerned that the district court failed to correct previously reported findings regarding inadequate manual receipts procedures and inadequate arrest warrant and DL-38 procedures. During the current examination, there were missing case files, escrow monies were not always disbursed timely, inadequate manual receipts procedures and inadequate arrest warrant and DL-38 procedures. These deficiencies could result in uncollected fines and unpunished offenders and increase the risk for funds to be lost or misappropriated. The district court should strive to implement the recommendations and corrective actions noted in this report.

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 52-3-04, Lebanon 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.



Eugene A. DePasquale
Auditor General

April 18, 2016

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DISTRICT COURT 52-3-04
LEBANON COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2014

Receipts:

Department of Transportation		
Title 75 Fines	\$	606,085
Motor Carrier Road Tax Fines		1,375
Overweight Fines		2,650
Commercial Driver Fines		1,500
Littering Law Fines		3,919
Child Restraint Fines		4,818
Department of Revenue Court Costs		312,294
Crime Victims' Compensation Bureau Costs		27,368
Crime Commission Costs/Victim Witness Services Costs		19,550
Domestic Violence Costs		7,492
Department of Agriculture Fines		2,288
Emergency Medical Service Fines		171,277
CAT/MCARE Fund Surcharges		500,634
Judicial Computer System Fees		161,992
Access to Justice Fees		43,487
Criminal Justice Enhancement Account Fees		6,309
Judicial Computer Project Surcharges		30,991
Constable Service Surcharges		14,283
Miscellaneous State Fines and Costs		<u>278,590</u>
 Total receipts (Note 2)		 2,196,902
 Disbursements to Commonwealth (Note 3)		 <u>(2,196,902)</u>
 Balance due Commonwealth (District Court) per settled reports (Note 4)		 -
 Examination adjustments		 <u>-</u>
 Adjusted balance due Commonwealth (District Court) for the period January 1, 2010 to December 31, 2014	 \$	 <u><u>-</u></u>

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

DISTRICT COURT 52-3-04
LEBANON COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2010 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	\$ 2,196,679
Department of Transportation	<u>223</u>
Total	<u><u>\$ 2,196,902</u></u>

4. Balance Due Commonwealth (District Court) For The Period January 1, 2010 To December 31, 2014

This balance reflects the summary of monthly transmittal reports as settled by the Department of Revenue. The balance also reflects a summary of any receipts disbursed directly to other state agencies.

5. Magisterial District Judge Serving During Examination Period

Michael D. Smith served at District Court 52-3-04 for the period January 1, 2010 to December 31, 2014.

DISTRICT COURT 52-3-04
LEBANON COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2014

Finding No. 1 - Missing Case Files

Our examination of the district court required that certain case files be examined. We encountered considerable difficulty in finding a number of case files. There were 43 out of 120 case files needed for testing that could not be located.

In order for an entity to have an efficient record-keeping system, each court document must be filed timely and properly. Additionally, the *Magisterial District Judge Automated Office Clerical Procedures Manual* (Manual) outlines the proper filing procedures for all district courts to follow.

The failure to follow these guidelines could result in case file documents being lost, misfiled, or intentionally destroyed. Additionally, collections associated with missing case files and documents could be 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 case files.

This condition existed because the district court failed to establish and implement an adequate system of internal controls over the accountability of case files. The district court stated that they destroyed records because they were already audited by the county auditors and the court was unaware that the Commonwealth had not yet conducted an examination of those records.

Recommendation

We recommend that the district court initiate procedures to ensure that all case files are properly filed and contain appropriate documents as outlined in the Manual.

Management's Response

The Magisterial District Judge responded as follows:

Upon taking office on January 4, 2016, I immediately corrected an open and obvious problem associated with case file organization and maintenance. Upon being closed and completed, files had been placed haphazardly in boxes located on the floor throughout the office. I directed that all files, open or closed, be filed alphabetically in designated filing cabinets. Files are now immediately filed in the appropriate filing cabinets upon being closed or completed so they can be easily located.

Auditor's Conclusion

We appreciate the Judge's attention to this matter. During our next examination, we will determine if the office complied with our recommendation.

DISTRICT COURT 52-3-04
LEBANON COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2014

Finding No. 2 - Escrow Monies Not Always Disbursed Timely

Our examination of the undisbursed funds report indicated that escrow funds collected from February 17, 2011 to August 15, 2014, totaling \$1,390.50, were not disbursed as of August 3, 2015.

The district court's bank account is essentially an escrow account on behalf of the Commonwealth and other participating parties. The court collects bail, security for motor vehicle trials, and other funds that must be held in escrow until disposition of the case. Once a case has been disposed, funds held in escrow should be transferred to the appropriate account or disbursed immediately.

Good internal accounting controls require that funds be disbursed timely. The failure to follow this procedure could result in monies not being paid to whom they are due.

Without a good system of internal control over funds received by the office, the possibility of funds being lost or misappropriated increases significantly.

The district court failed to review the undisbursed funds report on a monthly basis and take appropriate action.

Recommendation

We recommend that the district court review the undisbursed funds report on a monthly basis and take appropriate action and disburse funds to whom they are due.

Management's Response

The Magisterial District Judge responded as follows:

I have directed the periodic review of the undisbursed escrow report to ensure the regular and routine disbursement of escrow monies. Regular review of system issued reports regarding escrow funds will correct this issue.

Auditor's Conclusion

We appreciate the Judge's attention to this matter. During our next examination, we will determine if the office complied with our recommendation.

DISTRICT COURT 52-3-04
LEBANON COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2014

Finding No. 3 - Inadequate Internal Controls Over Manual Receipts - Recurring

We cited the office's lack of internal controls over manual receipts in the prior examination, with the most recent for the period January 1, 2007 to December 31, 2009. Our current examination found that the office did not correct this issue.

The Administrative Office of Pennsylvania Courts' (AOPC) policies require computer downtime manual receipts to be issued in the event of a temporary power loss to the district court's computer system. When the computer system is operating again, the computer downtime manual receipt is replaced by an official computer-generated receipt and included in the daily receipts. When the AOPC's policies are not followed, the possibility that funds received by the District Court could be lost or misappropriated increases significantly.

Our examination disclosed that required computer downtime manual receipt procedures were not always followed. Of 7 receipts tested, we noted the following:

- There were 7 computer downtime manual receipts that could not be located and were not available for our examination.
- There was 1 instance in which the computer receipt was not generated timely after the issuance of the corresponding downtime manual receipt. The time lapse from the date of the computer downtime manual receipt to the corresponding computer receipt was 6 days.
- There were 7 instances in which the computer downtime manual receipt number was not entered into the computer system when the corresponding computer receipt was generated.

The *Magisterial District Judge Automated Office Clerical Procedures Manual* (Manual) establishes the uniform written internal control policies and procedures for all district courts. The Manual requires that downtime manual receipts be issued in the event of a temporary power loss to the computer system. When the computer system is not operational, the receipt and log sheet should be filled out for each receipt number and the initials of the employee receiving the payment should be documented on the log sheet. The receipts should be used in numerical order; the log sheet should be filled out using the appropriate receipt number; a copy of that receipt should be given to the remitter; and the second copy of the receipt should be kept, along with the associated log, in a secure location. When the computer system is running again, the second copy of the receipt should be attached to the new system-generated receipt and placed in the case file and the date the payment was entered into the system should be documented on the log sheet. Additionally, the Manual requires that when a manual receipt number is issued, the manual receipt number should be entered in the manual receipt number field when creating the computer receipt. This will link the manual receipt to the computer receipt.

DISTRICT COURT 52-3-04
LEBANON COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2014

Finding No. 3 - Inadequate Internal Controls Over Manual Receipts - Recurring (Continued)

Good internal accounting controls ensure that:

- Computer downtime manual receipts are accounted for and maintained.
- Computer receipts are generated timely after the issuance of the corresponding computer downtime manual receipts.
- Computer downtime manual receipt numbers are entered in the manual receipt number field on the computer when the corresponding computer receipts are generated.

Adherence to good internal accounting controls and the uniform internal control policies and procedures, as set forth in the Manual, would have ensured that there were adequate internal controls over collections.

These conditions existed because the district court failed to establish and implement an adequate system of internal controls over computer downtime manual receipts and take appropriate action as recommended in our prior examination report.

Recommendation

We again recommend that the district court establish and implement an adequate system of internal controls over computer downtime manual receipts as noted above.

Management's Response

The Magisterial District Judge responded as follows:

To date, I have not encountered a situation requiring the issuance of a manual receipt. I have instructed staff as to the proper procedure to be utilized should manual receipts need to be issued.

Auditor's Conclusion

We appreciate the Judge's attention to this matter. During our next examination, we will determine if the office complied with our recommendation.

DISTRICT COURT 52-3-04
LEBANON COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2014

Finding No. 4 - Inadequate Arrest Warrant And DL-38 Procedures - Recurring

We cited the issue of inadequate arrest warrant and DL-38 procedures in the prior examination for the period January 1, 2007 to December 31, 2009. Our current examination found that the office did not correct this issue. 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 66 instances in which a warrant was required to be issued. Our testing disclosed that 17 were not issued timely and 1 was not issued at all. The time of issuance ranged from 97 days to 303 days.

In addition, of 65 warrants required to be returned or recalled, 6 were not returned or recalled and 7 were not returned or recalled timely. The time of issuance to the time of return ranged from 242 days to 1,077 days.

Furthermore, we tested 22 instances in which a DL-38 was required to be issued. Our testing disclosed that 2 were not issued timely and 2 were not issued at all. The time of issuance ranged from 89 days to 245 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 52-3-04
LEBANON COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2014

Finding No. 4 - Inadequate Arrest Warrant And DL-38 Procedures - Recurring (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 52-3-04
LEBANON COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2014

Finding No. 4 - Inadequate Arrest Warrant And DL-38 Procedures - Recurring (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.

This condition existed because the district court failed to review warrant control report and tickler reports for warrants and DL-38s daily and take appropriate action as recommended in our prior examination report. 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 again 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:

Upon taking office, the warrant list identifying cases for which warrants were due to be issued exceeded 450. As of the date of this letter, the list contains 32 cases. DL-38 notices, impending warrant notices, and warrants are now issued on a daily basis.

Auditor's Conclusion

We appreciate the Judge's efforts to correct this issue. During our next examination, we will determine if the office complied with our recommendations.

DISTRICT COURT 52-3-04
LEBANON COUNTY
SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2014

Summary Of Prior Examination Recommendations

During our prior examination, we recommended that the office:

- Establish and implement an adequate system of internal controls over computer downtime manual receipts.
- Review the tickler reports for warrants and DL-38s daily and take appropriate action as required by the *Magisterial District Judge Automated Office Clerical Procedures Manual*. We further recommended 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.

During our current examination, we noted that the office did not comply with our recommendations. Please see the current year Finding Nos. 3 and 4 for additional information.

DISTRICT COURT 52-3-04
LEBANON COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2010 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 John W. Ditzler
Magisterial District Judge

The Honorable Robert J. Phillips
Chairperson of the Board of Commissioners

The Honorable Robert M. Mettley
Controller

Ms. Stephanie Axarlis
District Court Administrator

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