

ATTESTATION ENGAGEMENT

District Court 12-2-02
Montgomery County, Pennsylvania
For the Period
January 1, 2009 to December 31, 2013

July 2015



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 12-2-02, Dauphin County, Pennsylvania (District Court), for the period January 1, 2009 to December 31, 2013, 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, 2013, 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.

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.

- Failure To Follow The *Supreme Court Of Pennsylvania Administrative Office Of Pennsylvania Courts Record Retention And Disposition Schedule With Guidelines Procedures*.

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. We consider the deficiencies listed below to be significant deficiencies.

- Inadequate Outstanding Check Procedures.
- Inadequate Arrest Warrant Procedures.

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 other instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

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 12-2-02, Dauphin 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 24, 2015

DISTRICT COURT 12-2-02
 DAUPHIN COUNTY
 STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2009 TO DECEMBER 31, 2013

Receipts:

Department of Transportation		
Title 75 Fines	\$	287,224
Motor Carrier Road Tax Fines		875
Overweight Fines		23,586
Commercial Driver Fines		3,498
Littering Law Fines		25
Child Restraint Fines		3,426
Department of Revenue Court Costs		337,753
Crime Victims' Compensation Bureau Costs		42,282
Crime Commission Costs/Victim Witness Services Costs		30,308
Domestic Violence Costs		10,232
Department of Agriculture Fines		354
Emergency Medical Service Fines		74,688
CAT/MCARE Fund Surcharges		235,350
Judicial Computer System Fees		156,276
Access to Justice Fees		45,153
Criminal Justice Enhancement Account Fees		13,759
Judicial Computer Project Surcharges		62,680
Constable Service Surcharges		36,991
Miscellaneous State Fines and Costs		<u>9,895</u>
 Total receipts (Note 2)		 1,374,355
 Disbursements to Commonwealth (Note 3)		 <u>(1,374,355)</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, 2009 to December 31, 2013	 \$	 <u><u>-</u></u>

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

DISTRICT COURT 12-2-02
DAUPHIN COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2013

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	\$ 1,374,334
Turnpike Commission	<u>21</u>
Total	<u><u>\$ 1,374,355</u></u>

4. Balance Due Commonwealth (District Court) For the Period January 1, 2009 to December 31, 2013

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.

DISTRICT COURT 12-2-02
DAUPHIN COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2013

5. Magisterial District Judges Serving During Examination Period

Steven M. Semic served at District Court 12-2-02 for the period January 1, 2009 to October 20, 2009.

Various Senior Judges served at District Court 12-2-02 for the period October 21, 2009 to January 5, 2010.

Kenneth A. Lenker served at District Court 12-2-02 for the period January 6, 2010 to December 31, 2013.

DISTRICT COURT 12-2-02
DAUPHIN COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2013

Finding No. 1 - Failure to Follow the *Supreme Court of Pennsylvania Administrative Office Of Pennsylvania Courts Record Retention And Disposition Schedule With Guidelines Procedures*

Our examination disclosed that the majority of traffic/non-traffic citations issued between 2009 and 2010 were not available for examination and were destroyed after December 2013 by the district court without being in compliance with the procedures described in the *Supreme Court of Pennsylvania Administrative Office of Pennsylvania Courts Record Retention And Disposition Schedule with Guidelines* (Schedule).

The Schedule outlines the proper procedures for the destruction of non-permanent court records. Disposal request procedures include:

A request to destroy non-permanent scheduled records must be submitted by the record custodian requesting permission to dispose of the record(s) to the Record Retention Officer utilizing a Unified Judicial System Disposal Log for Non-Permanent Records form adopted by the AOPC as provided in Pa.R.J.A. No. 507. The Record Retention Officer shall review the Records Disposal Log Form for completeness and shall grant written permission to dispose of such non-permanent records upon ascertaining that the applicable retention period as set forth in the schedule has been met. Written approval from the AOPC is not necessary before destroying non-permanent records as identified in the schedule. A log of individual disposition actions involving non-permanent records must be maintained. Copies of the Records Disposal Log Form shall be submitted on an annual basis to the AOPC. (See §4.5 Form Retention)

Although the Schedule identifies traffic and non-traffic citations as records that may be destroyed after three years, the Schedule also states in part:

Records subject to audit must be retained for the periods listed in the schedule and must be audited and all findings resolved before such records may be destroyed. [Emphasis added.]

The failure to maintain these records resulted in an unclear examination trail. Additionally, collections associated with missing case files and documents could be lost or misappropriated.

DISTRICT COURT 12-2-02
DAUPHIN COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2013

**Finding No. 1 - Failure to Follow the Supreme Court of Pennsylvania Administrative Office
Of Pennsylvania Courts Record Retention And Disposition Schedule With
Guidelines Procedures (Continued)**

Recommendations

We recommend that the district court comply with the procedures listed in the Schedule.

We further recommend that the district court not destroy citations until after they have been subject to examination by the Department of the Auditor General.

Management's Response

The Magisterial District Judge responded as follows:

The records that were destroyed were approved for destruction by our Records and Retention officer. To prevent this occurrence again I will be holding all records until the Pennsylvania State Audit is completed even if this is over 5 years.

Auditor's Conclusion

During our next examination we will determine if the office complied with our recommendations.

DISTRICT COURT 12-2-02
DAUPHIN COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2013

Finding No. 2 - Inadequate Outstanding Check Procedures

Our examination of the court's checking account disclosed that the district court was carrying 22 outstanding checks totaling \$711.02 dated from July 30, 2012 to October 28, 2013 that were still outstanding as of December 31, 2013.

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 if a check issued by the Magisterial District Judge is outstanding (not cashed) after 60 days, the check must be marked stale. The court should first make an attempt to contact the recipient of the check. Only checks that are 60 days old or older can be marked stale. The amount of the check should be reinstated (added) to the district court checking account and remitted at the end of the month to the county treasurer for deposit into an escheat account.

The failure to follow these procedures results in a weakening of internal control over the cash account and inefficiency caused by the needless record-keeping of long outstanding checks.

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 outstanding checks.

The court did not review or take appropriate follow-up action on long outstanding checks.

Recommendations

We recommend that the district court establish and implement a procedure whereby outstanding checks are reviewed monthly to determine if there are any long outstanding checks. The court should reinstate the amount of outstanding checks to the court's checking account and remit this money to the county treasurer for deposit into an escheat account.

We further recommend that the district court comply with the procedures outlined in the Manual relating to outstanding check procedures.

DISTRICT COURT 12-2-02
DAUPHIN COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2013

Finding No. 2 - Inadequate Outstanding Check Procedures (Continued)

Management's Response

The Magisterial District Judge responded as follows:

This arose due to citizens and or government agencies that were issued a check by this office, not cashing these checks within 60 days. Our office will start running reports every 90 days and if a check is not cashed will redistribute funds to the County of Dauphin. Some banks have been cashing these checks even though they clearly state do not cash after 60 days.

Auditor's Conclusion

During our next examination we will determine if the office complied with our recommendations.

DISTRICT COURT 12-2-02
DAUPHIN COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2013

Finding No. 3 - Inadequate Arrest Warrant Procedures

Warrants 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.

During our testing of warrant procedures, we noted that warrant return procedures established by the *Magisterial District Judge Automated Office Clerical Procedures Manual* (Manual) were not always followed. We tested 43 instances in which a warrant was required to be returned or recalled. Our testing disclosed that 4 were not returned or recalled, and 9 were not returned or recalled timely. The time of issuance to the time of return ranged from 195 days to 685 days.

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

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. Returned warrants should be completed in their entirety, including being signed by the constable. Returned warrants should also be maintained in the case file.

The failure to follow warrant 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 warrant returns.

Recommendations

We 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 required by the Manual. We further recommend that returned warrants be completed in their entirety, signed by the constable and maintained in the case file.

DISTRICT COURT 12-2-02
DAUPHIN COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2013

Finding No. 3 - Inadequate Arrest Warrant Procedures - Recurring (Continued)

Management's Response

The Magisterial District Judge responded as follows:

I spoke to all my staff and the Constables used by this office which are directly issued summary warrants. Effective April 24, 2015 all summary warrants that are not served MUST be returned to my office within 5 months. Additionally all warrants served or returned MUST be filled out by the Constables and will be placed in the correct file folder.

Auditor's Conclusion

The court should ensure that all outstanding warrants that are unserved for 60 days for summary traffic and non-traffic cases are returned to the office as required by the Manual. During our next examination we will determine if the office complied with our recommendations.

DISTRICT COURT 12-2-02
DAUPHIN COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2013

This report was initially distributed to:

The Honorable Eileen H. McNulty
Secretary
Pennsylvania Department of Revenue

The Honorable Zygmunt Pines
Court Administrator of Pennsylvania
Supreme Court of Pennsylvania
Administrative Office of Pennsylvania Courts

The Honorable Kenneth A. Lenker	Magisterial District Judge
The Honorable Jeff Haste	Chairperson of the Board of Commissioners
The Honorable Marie E. Rebuck	Controller
Ms. Deborah S. Freeman, Esquire	Acting District Court Administrator

This report is a matter of public record and is available online at <http://www.PaAuditor.gov>. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.