

ATTESTATION ENGAGEMENT

District Court 32-2-39
Delaware County, Pennsylvania
For the Period
January 1, 2009 to December 31, 2012

December 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 32-2-39, Delaware County, Pennsylvania (District Court), for the period January 1, 2009 to December 31, 2012, 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, 2012, 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.

- Misappropriation Of Commonwealth Funds.
- Inadequate Segregation Of Duties.
- Inadequate Arrest Warrant And DL-38 Procedures - Recurring.

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)

We are concerned that the district court failed to correct a previously reported finding regarding inadequate arrest warrant and DL-38 procedures. This significant deficiency 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 32-2-39, Delaware 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

July 24, 2015

CONTENTS

	<u>Page</u>
Financial Section:	
Statement Of Receipts And Disbursements.....	1
Notes To The Statement Of Receipts And Disbursements.....	2
Findings And Recommendations:	
Finding No. 1 - Misappropriation Of Commonwealth Funds	3
Finding No. 2 - Inadequate Segregation Of Duties	4
Finding No. 3 - Inadequate Arrest Warrant And DL-38 Procedures - Recurring	6
Report Distribution	10

DISTRICT COURT 32-2-39
 DELAWARE COUNTY
 STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2009 TO DECEMBER 31, 2012

Receipts:

Department of Transportation		
Title 75 Fines	\$	240,225
Motor Carrier Road Tax Fines		38
Overweight Fines		563
Commercial Driver Fines		4,952
Littering Law Fines		740
Child Restraint Fines		3,094
Department of Revenue Court Costs		238,306
Crime Victims' Compensation Bureau Costs		28,707
Crime Commission Costs/Victim Witness Services Costs		20,601
Domestic Violence Costs		7,232
Emergency Medical Service Fines		84,220
CAT/MCARE Fund Surcharges		253,893
Judicial Computer System Fees		100,866
Access to Justice Fees		27,886
Criminal Justice Enhancement Account Fees		6,145
Judicial Computer Project Surcharges		27,979
Constable Service Surcharges		16,766
Miscellaneous State Fines and Costs		1,956
		<hr/>
Total receipts (Note 2)		1,064,169
Disbursements to Commonwealth (Note 3)		<hr/> <u>(1,064,000)</u>
Balance due Commonwealth (District Court) per settled reports (Note 4)		169
Examination adjustments		<hr/> <u>-</u>
Adjusted balance due Commonwealth (District Court) for the period January 1, 2009 to December 31, 2012	\$	<hr/> <u><u>169</u></u>

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

DISTRICT COURT 32-2-39
DELAWARE COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

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	<u><u>\$ 1,064,000</u></u>
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4. Balance Due Commonwealth (District Court) For The Period January 1, 2009 To December 31, 2012

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

5. Magisterial District Judge Serving During Examination Period

C. Walter McCray III served at District Court 32-2-39 for the period January 1, 2009 to December 31, 2012.

DISTRICT COURT 32-2-39
DELAWARE COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Finding No. 1 - Misappropriation Of Commonwealth Funds

The Delaware County Court Administration disclosed to us that a district court clerk had misappropriated funds.

The misappropriation of funds occurred when the former clerk voided receipts and did not apply the payments totaling \$202.50 to several cases where individuals paid with either cash or a money order. In one instance, the former clerk voided a receipt for a case that paid \$102.50 in the form of a money order and applied that money order against another case that paid with cash. The former clerk took the cash and never applied it to the applicable case. In another instance, the former clerk voided receipts for a case that received a \$100 money order and for two cases where individuals each paid \$50. The former clerk then took the \$100 in cash and applied the money order to the cases where payments were made in cash. Of the \$202.50 misappropriated, we determined that \$114.89 was Commonwealth funds.

This condition existed because the office did not adequately segregate staff duties within the office (refer to finding No. 2).

Good internal accounting controls ensure that funds received from third parties are properly safeguarded in order to prevent funds from being lost or stolen.

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

The former clerk was terminated on August 3, 2010. The county recovered the \$202.50 in misappropriated funds from the former clerk.

Recommendation

We recommend that the district court establish and implement an adequate system of internal controls over receipts to ensure that all payments are properly recorded, deposited and remitted.

Management's Response

The Magisterial District Judge responded as follows:

Upon discovering the theft by the former court clerk, the employee was immediately terminated. The missing funds were also reimbursed by the fired employee. Thereafter, internal procedures were implemented to prevent such an occurrence from happening again. To date, no such problem has recurred.

DISTRICT COURT 32-2-39
DELAWARE COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Finding No. 2 - Inadequate Segregation Of Duties

Our examination disclosed that one employee in the district court was responsible for performing the following functions:

- Opening mail.
- Collecting cash, entering collection information into the computer system, and issuing receipts.
- Preparing deposit slips.
- Making the deposit.
- Making voided transaction adjustments.
- Reconciling the bank account.
- Preparing checks.
- Summarizing accounting records.

A good system of internal control requires adequate segregation of duties.

In order to achieve adequate segregation of duties, one employee should not have custody of cash and at the same time maintain the accounting records for the cash, make voided transaction adjustments, and follow up on citations. These duties should be segregated and rotated daily. As an alternative control, someone independent from maintaining the accounting records and handling cash should review the employee's work daily. The reviewer should sign and date the records and documents reviewed. These documents should also include the tickler reports generated by the computer system to investigate why certain citations have not been issued DL-38s or warrants.

Without adequate segregation of duties, the possibility of funds being lost or misappropriated increases significantly.

This condition existed because office did not establish adequate segregation of duties. Additionally, duties involving the handling of cash and maintaining accounting records were not rotated daily.

DISTRICT COURT 32-2-39
DELAWARE COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Finding No. 2 - Inadequate Segregation Of Duties (Continued)

Recommendation

We recommend that the district court provide for greater segregation of duties within the office. This can be done by cross-training personnel and rotating job functions that include the handling of cash, making voided transaction adjustments, monitoring follow-up procedures on citations, and maintaining the accounting records for the cash. As an alternative and/or additional control, someone independent from the handling of cash and the accounting records should review the employee's work at the end of each day. The reviewer should sign and date the records and documents reviewed.

Management's Response

The Magisterial District Judge responded as follows:

Upon discovering the theft by the former court clerk, the employee was immediately terminated. The missing funds were also reimbursed by the fired employee. Thereafter, internal procedures were implemented to prevent such an occurrence from happening again. To date, no such problem has recurred.

DISTRICT COURT 32-2-39
DELAWARE COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Finding No. 3 - Inadequate Arrest Warrant And DL-38 Procedures - Recurring

We cited the issue of inadequate arrest warrant and DL-38 procedures in the prior examination report for the period January 1, 2006 to December 31, 2008. 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 33 instances in which a warrant was required to be issued. Our testing disclosed that 20 were not issued timely. The time of issuance ranged from 64 days to 739 days.

In addition, of 33 warrants required to be returned or recalled, 11 were not returned or recalled, and 12 were not returned timely. The time of issuance to the time of return ranged from 543 days to 1,138 days.

Furthermore, we tested 13 instances in which a DL-38 was required to be issued. Our testing disclosed that all 13 were not issued timely. The time of issuance ranged from 90 days to 568 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 32-2-39
DELAWARE COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Finding No. 3 - 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 32-2-39
DELAWARE COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

**Finding No. 3 - 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 ignored our prior audit recommendation to review tickler reports for warrants and DL-38s daily. 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 strongly 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 required by the Manual.

Management's Response

The Magisterial District Judge responded as follows:

This deficiency was also identified by the Delaware County Administrative Office for District Judges, prior to the Audit being conducted. Our Administrative Office began amassing comprehensive statistics for this Court in January 2012, at which time the deficiency was identified. Since discovering the procedural issues our Regional Assistant Administrators have worked with the staff to make corrections. Specifically, our Court Coordinator has been asked to ensure that all DL-38s are processed in a timely manner, while addressing the back log that existed. Additionally, the Court Coordinator was also asked to similarly address the Warrant backlog and the Warrant recalls. The Regional Assistant Administrators have routinely monitored the progress and have assisted in correcting the problems.

DISTRICT COURT 32-2-39
DELAWARE COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

**Finding No. 3 - Inadequate Arrest Warrant And DL-38 Procedures - Recurring
(Continued)**

Management's Response (continued)

While we have addressed the issues that were found, I and our Administrative Office also seek to prevent this type of issue from reoccurring. To that end, our First Assistant Regional Administrator will provide updated Court statistics to each of our District Courts biannually in March and September of each year. These reports include such things as outstanding DL-38s, Warrant Management, Summons Tracking, Civil Lack of Service and an Undisbursed Funds report. These reports will be provided to each Magisterial District Judge and his/her Court Coordinator. The reports for all of our District Courts will also be provided to the President Judge of Delaware County. Following the distribution of these reports, the Regional Assistant Administrators will work with the Court Coordinators and Court Clerks to address any deficiencies. The Special Court Administrator and First Assistant Administrator will monitor the progress of any corrective actions and take additional actions if needed.

Auditor's Conclusion

This is a recurring finding. It is imperative that the district court take all steps necessary to comply with our recommendations, and we are pleased that the district court has indicated that corrective action has begun.

DISTRICT COURT 32-2-39
DELAWARE COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

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 C. Walter McCray III	Magisterial District Judge
The Honorable Thomas J. McGarrigle	Chairperson of the Board of Commissioners
The Honorable Edward O'Lone	Controller
Charles E. McDonald, Esquire	District Court Administrator

This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: [news@ PaAuditor.gov](mailto:news@PaAuditor.gov).