

# ATTESTATION ENGAGEMENT

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District Court 41-3-05  
Perry County, Pennsylvania  
For the Period  
January 1, 2009 to December 31, 2014

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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 41-3-05, Perry 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.

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 Funds Of \$762.
- Lack Of Internal Control Over Third Party Collections.
- Inadequate Arrest Warrant 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.

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 41-3-05, Perry 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

August 28, 2015

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DISTRICT COURT 41-3-05  
PERRY COUNTY  
STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2009 TO DECEMBER 31, 2014

Receipts:

Department of Transportation		
Title 75 Fines	\$	142,772
Motor Carrier Road Tax Fines		1,100
Overweight Fines		75
Littering Law Fines		90
Child Restraint Fines		849
Department of Revenue Court Costs		247,739
Crime Victims' Compensation Bureau Costs		51,607
Crime Commission Costs/Victim Witness Services Costs		36,862
Domestic Violence Costs		12,747
Department of Agriculture Fines		14,468
Emergency Medical Service Fines		26,945
CAT/MCARE Fund Surcharges		82,286
Judicial Computer System Fees		118,390
Access to Justice Fees		40,892
Criminal Justice Enhancement Account Fees		22,292
Judicial Computer Project Surcharges		116,973
Constable Service Surcharges		16,744
Miscellaneous State Fines and Costs		<u>54,353</u>
 Total receipts (Note 2)		 987,184
 Disbursements to Commonwealth (Note 3)		 <u>(987,184)</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, 2014	 \$	 <u><u>-</u></u>

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

DISTRICT COURT 41-3-05  
PERRY 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	\$ 985,810
Administrative Office of Pennsylvania Courts	1,348
Conservation and Natural Resources	<u>26</u>
Total	<u>\$ 987,184</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. The balance also reflects a summary of any receipts disbursed directly to other state agencies.

5. Magisterial District Judge Serving During Examination Period

Elizabeth R. Frownfelter served at District Court 41-3-05 for the period January 1, 2009 to December 31, 2014.

DISTRICT COURT 41-3-05  
PERRY COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2009 TO DECEMBER 31, 2014

**Finding No. 1 - Misappropriation Of Funds Of \$762**

The Magisterial District Judge disclosed to us in February of 2015 that a former constable had misappropriated funds totaling \$762. The Judge requested that the Pennsylvania State Police conduct an investigation. All of the misappropriated funds were funds owed to Perry County.

The Judge became aware of missing district court funds after a defendant came into the court with a receipt of payment on a warrant. The misappropriation occurred when the former constable did not remit cash payments collected on three warrants to the district court. The former constable also failed to return the associated paperwork relating to the three cases to the court.

This condition existed because the office failed to establish adequate internal controls over third party collections. Please refer to Finding No. 2.

Good internal accounting controls ensures that funds collected by 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 district court, the possibility of funds being lost or misappropriated increases significantly.

The former constable was terminated on October 1, 2014. The former constable was charged with failure to make the required disposition of funds in May 2015.

**Recommendation**

We recommend that the district court establish and implement adequate internal controls over third party collections to ensure that all payments are properly recorded, deposited and remitted.

**Management's Response**

The Magisterial District Judge responded as follows:

The malfeasance of the constable was discovered by me on September 30, 2014. I reported that malfeasance to the Pennsylvania State Police, the Perry County Court of Common Pleas, the Perry County District Attorney's Office, and the Administrative Office of Pennsylvania Courts that day and the following morning. Criminal charges have been filed against the constable as a result of my report and the case has been held for court. He is currently scheduled for formal arraignment in the Perry County Court of Common Pleas on October 1, 2015.

**Auditor's Conclusion**

During our next examination, we will determine if the district court complied with our recommendation.

DISTRICT COURT 41-3-05  
PERRY COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2009 TO DECEMBER 31, 2014

**Finding No. 2 - Lack Of Internal Controls Over Third Party Collections**

During our review of warrant procedures at the district court, we noted that constables, when serving warrants issued by the Magisterial District Judge, were collecting fines and costs on behalf of the court. Our examination disclosed several significant internal control weaknesses as follows:

- Eight of 30 warrants tested were not completed properly. Of these 8 warrants, 7 warrants did not have defendant's signature on the warrant, and the remaining warrant was blank.
- Funds collected by constables were not remitted to the district court timely in 19 of the 30 warrants tested. The date of collection to the date of remittance to the district court ranged from 3 to 20 days.

Good internal accounting controls and the *Magisterial District Judge Automated Office Clerical Procedures Manual* (Manual), which establishes the uniform written internal control policies and procedures for all district courts, require that the court maintain complete accountability over all citations and subsequent collections. The court should not delegate these functions to constables or any other independent contractor or third party without also implementing adequate internal controls over the receipt of funds.

Official receipts should be issued by the constables upon the collection of fines and costs and copies of these receipts, signed by the defendant, should accompany payments turned over to the court. All checks and money orders collected by the constables should be payable to the court and should be remitted to the court immediately upon collection.

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 third party collections.

Magisterial District Judges have the power to choose constables to perform services on behalf of the court. Because constables are independent contractors, the court has the authority to dictate minimum standards of satisfactory performance, so long as said standards are not inconsistent with pertinent statutes and Rules of Court. Such standards include the requirement that constables or other third parties who collect money on behalf of district courts prepare and maintain the documentation which is necessary to maintain effective internal controls as well as to establish an adequate examination trail with respect to said funds.

DISTRICT COURT 41-3-05  
PERRY COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2009 TO DECEMBER 31, 2014

**Finding No. 2 - Lack Of Internal Controls Over Third Party Collections (Continued)**

Because of the inadequate internal control over third party collections, misappropriation of funds occurred as stated in Finding No. 1.

This condition existed because the district court failed to establish and implement an adequate system of internal controls over third party collections.

**Recommendations**

We recommend that the district court request that the constables it engages for service of process or warrants complete the back of warrants in their entirety which serve as official receipts, and submit the warrants, along with collections, immediately to the district court.

Further, we recommend that the court consider discontinuing its use of constables who refuse to voluntarily comply with the court's request. The court should account for all collections, including constable fees, and document its attempts to ensure that unserved warrants are returned when recalled, in accordance with the Manual.

Additionally, we recommend that the district court authorize payment of only allowable and correctly documented costs and fees for constables.

**Management's Response**

The Magisterial District Judge responded as follows:

In order to correct the issue of staleness and appropriate documentation by the constable upon collection of money, several new procedures will be implemented starting September 1, 2015:

1. A "Note Page" printed on colored paper will be attached to the back of each warrant. The constable will make dated contemporaneous notes of service attempts, findings, etc. on this sheet.
2. The Warrant Management Report will be reviewed monthly for stale warrants, will be recalled and cancelled, constable notes reviewed, and if the warrant is re-issued, the constable notes attached to the newly issued warrant so that the constable's work is not lost. Additionally, this process will allow any new information received by this office to be written in red on the constable note page for his use.
3. Each constable will be required to have the signature of the payor on the warrant, regardless of whether the payor is the defendant or not, along with the usual information that is filled in on page 2 of the warrant. Failure to conform to these policies will result in the recall of the warrants from that constable.

DISTRICT COURT 41-3-05  
PERRY COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2009 TO DECEMBER 31, 2014

**Finding No. 2 - Lack Of Internal Controls Over Third Party Collections (Continued)**

Auditor's Conclusion

During our next examination, we will determine if the district court complied with our recommendations.

DISTRICT COURT 41-3-05  
PERRY COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2009 TO DECEMBER 31, 2014

**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 procedures established by the *Magisterial District Judge Automated Office Clerical Procedures Manual* (Manual) were not always followed. The Magisterial District Judge did not consistently recall warrants when required.

Of 46 warrants required to be returned or recalled, 2 were not returned or recalled, and 18 were not returned timely. The time of issuance to the time of return ranged from 287 days to 1,267 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.

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 warrants.

**Recommendation**

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 recommended by the Manual.

DISTRICT COURT 41-3-05  
PERRY COUNTY  
FINDINGS AND RECOMMENDATIONS  
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**Finding No. 3 - Inadequate Arrest Warrant Procedures (Continued)**

Management's Response

The Magisterial District Judge responded as follows:

Court 41-3-05 is staffed by one office manager and judge only. This court usually receives two sets of 1,800 to 2,000 non-traffic citations from the Capital Tax Collection Bureau each year. These groups of 2,000 cases are electronically filed which gives them all the same tracking dated for first class summons, certified summons, and ultimately, the issuance of warrants. My office manager and I work diligently at processing these cases in the most timely manner we are able to produce. The end result that the constable receives 400 to 500 warrants, all at the same time, two times a year.

Auditor's Conclusion

Although we recognize the district court's concerns about staffing, it is imperative that adequate arrest warrant procedures are in place. During our next examination, we will determine if the office complied with our recommendation.

DISTRICT COURT 41-3-05  
PERRY 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 Elizabeth R. Frownfelter** Magisterial District Judge

**The Honorable John J. Amsler** Chairperson of the Board of Commissioners

**Ms. Christina Zook** District Court Administrator

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://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).