

# ATTESTATION ENGAGEMENT

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District Court 41-3-04  
Perry County, Pennsylvania  
For the Period  
January 1, 2009 to December 31, 2014

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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 41-3-04, 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.

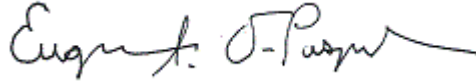
- Inadequate Arrest Warrant Procedures.
- Lack Of Internal Controls Over Third Party Collections.

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.

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.

Independent Auditor's Report (Continued)

We appreciate the courtesy extended by the District Court 41-3-04, 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.

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

January 27, 2016

Eugene A. DePasquale  
Auditor General

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DISTRICT COURT 41-3-04  
PERRY COUNTY  
STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2009 TO DECEMBER 31, 2014

Receipts:

Department of Transportation		
Title 75 Fines	\$	540,594
Motor Carrier Road Tax Fines		625
Overweight Fines		6,300
Commercial Driver Fines		500
Littering Law Fines		1,926
Child Restraint Fines		1,990
Department of Revenue Court Costs		256,138
Crime Victims' Compensation Bureau Costs		46,601
Crime Commission Costs/Victim Witness Services Costs		33,261
Domestic Violence Costs		12,337
Department of Agriculture Fines		9,301
Emergency Medical Service Fines		118,837
CAT/MCARE Fund Surcharges		354,845
Judicial Computer System Fees		130,635
Access to Justice Fees		35,717
Criminal Justice Enhancement Account Fees		6,562
Judicial Computer Project Surcharges		31,747
Constable Service Surcharges		14,321
Miscellaneous State Fines and Costs		122,270
		<hr/>
Total receipts (Note 2)		1,724,507
Disbursements to Commonwealth (Note 3)		<hr/> (1,724,507)
Balance due Commonwealth (District Court) per settled reports (Note 4)		-
Examination adjustments		<hr/> -
Adjusted balance due Commonwealth (District Court) for the period January 1, 2009 to December 31, 2014	\$	<hr/> <hr/> -

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

DISTRICT COURT 41-3-04  
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	\$ 1,724,393
PA Restitution	<u>114</u>
Total	<u>\$ 1,724,507</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.

DISTRICT COURT 41-3-04  
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NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS  
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5. Magisterial District Judges Serving During Examination Period

Donald F. Howell served at District Court 41-3-04 for the period January 1, 2009 to April 4, 2010.

Elizabeth Frownfelter served at District Court 41-3-04 for the period April 5, 2010 to December 31, 2011.

Mervin Dubbs, Senior Magisterial District Judge served at District Court 41-3-04 (Intermittently) during the period August 2010 through December 2010.

Michael E. Schechterly served at District Court 41-3-04 for the period January 1, 2012 to December 31, 2014.



DISTRICT COURT 41-3-04  
PERRY COUNTY  
FINDINGS AND RECOMMENDATIONS  
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**Finding No. 1 - 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 issue warrants when required. We tested 64 instances in which a warrant was required to be issued. Our testing disclosed that 7 were not issued timely and 7 were not issued at all. The time of issuance ranged from 65 days to 277 days.

In addition, of 52 warrants required to be returned or recalled, 12 were not returned or recalled, and 9 were not returned timely. The time of issuance to the time of return ranged from 204 days to 887 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.

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.

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**Finding No. 1 - Inadequate Arrest Warrant Procedures (Continued)**

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.

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.

**Recommendations**

We recommend that the district court review the tickler reports for warrants 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.

DISTRICT COURT 41-3-04  
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**Finding No. 1 - Inadequate Arrest Warrant Procedures (Continued)**

Management's Response

The judge responded as follows:

According to the elements for this finding, 7 of 64 warrants tested were not issued timely and the time of issuance ranged from 65 days to 277 days. However, a thorough and accurate examination of the docket entries for the indicated cases reveals that the correct range of untimely issuance was 54 days to 160 days. A thorough and accurate examination of the docket entries for the indicated cases reveals that four of the cases cited, in fact, did NOT have any untimely issued warrants. Of the five untimely issued warrants, only two occurred during my tenure. **The elements of finding should be corrected to show that 5 warrants were not issued timely and the time of issuance ranged from 54 days to 160 days.**

It should be noted that beginning in September 2015, after being learning at MDJ updates [sic] that warrants should be reissued every 60 days, I now check the warrant list at the end of each month for stale warrants and either cancel and reissue the warrants or have them returned as unserved.

Auditors Conclusion:

We understand that the MDJ used the scheduled event that is generated by the computer system after all notices of impending warrants have been satisfied to calculate the timeliness of warrants. The scheduled event date can be easily adjusted by any user within the system. Our examination procedures require that we use the date that the warrant may be issued as the start date to establish timeliness. Our examination procedures properly account for the impending warrant events by establishing a 60 day grace period, within which no exceptions for late warrants are included. Based on these procedures, we stand by the elements of our finding.

We recommend that the current officeholder take all corrective action necessary to comply with all our recommendations. During our next examination, we will determine if the office complied with our recommendations.

DISTRICT COURT 41-3-04  
PERRY COUNTY  
FINDINGS AND RECOMMENDATIONS  
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**Finding No. 2 - Lack Of Internal Controls Over Third Party Collections**

During our review of warrant procedures at the district court, we noted that the 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:

- Five of 11 warrants with field collections made by constables were not remitted to the district court timely. Time lapses ranged from 3 days to 17 days.
- Four of 11 warrants with field collections were not properly signed by the defendant.
- One of 11 warrants did not have the amount collected properly documented.

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.

If receipts are collected by constables, internal controls could be improved by the constables issuing official receipts upon the collection of fines and costs and by the constables providing copies of these receipts, signed by the defendant, along with the 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.

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

Without a good system of internal control over funds over third party collections, the possibility of funds being lost or misappropriated increases significantly.

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.

**Management's Response**

The judge responded as follows:

I would like it noted that I was seated as magisterial district judge on January 1, 2012, and, therefore, I had no control over warrants that were issued and returned prior to my assuming office. Of the 11 warrants tested, 5 dealt with time periods prior to January 1, 2012.

Of the 5 of 11 warrants that *appeared* to have untimely remission of collected fees to this office, only 1 occurred during my term in office. In that case, the constable had executed a warrant sweep in Philadelphia (a 2 ½ hour trip, one way, from this office) for warrants issued by this office. The constable stayed overnight and returned on the weekend of August 3<sup>rd</sup>. He turned in the money he collected to this office on Monday morning, August 5, 2013. Obviously, the constable could not turn in the money he collected to this office on the weekend as we do not have office hours on the weekend. The only logical conclusion is that the constable turned in the money he collected at the earliest possible moment and was thus timely. Accordingly, **6 out of 6 warrants tested for the time period I assumed office were remitted timely and the elements of finding should be corrected to state that 4 of 11 warrants had untimely remission of collected fees.**

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

**Management's Response (Continued)**

Three of 6 warrants with field collections for the time period I assumed office were not properly signed. The money for the first instance was collected by a Pennsylvania State trooper on October 7, 2013. This was an unusual circumstance in that troopers do not usually collect warrant costs **Troopers are NOT subcontractors for this office, I have no control over them, and therefore, this should not be held against my office.** The money collected for the second warrant issued was collected by a constable that this office no longer uses and it was remitted way back on April 27, 2012, which was four months after I assumed office. The testing showed that **since April 27, 2012, none of the warrants with field collections made by constables (subcontractors of this office) lacked defendant signatures.** The money for the third warrant issued was paid by the defendant online after he contacted the constable via telephone after the constable had stopped and left a card at defendant's address. Because the defendant and the constable never had direct physical contact, the constable was unable to get defendant's signature on the warrant. **The elements of finding should be corrected to state that 2 of 11 warrants were not properly signed by the defendant.**

**6 of 6 warrants tested for the time period I assumed office had the amount collected properly documented.** Because 0 of 6 warrants tested for the time period I assumed office showed field collections remitted untimely, 0 of 6 did not have the amount collected properly documented, and only 1 of 6 was not properly signed by the defendant (and that mistake was not found to have been repeated during the remaining 2 years and 8 months of the examination period during which I was in office), **no finding should be issued against my office for "lack of internal controls over third party collections" for the time period of January 1, 2012 through December 31, 2014.**

**Auditors Conclusion:**

Of the 5 of 11 warrants that had untimely remission of collected fees to the office, we concur that only 1 occurred during the current MDJ time in office. The collections for this warrant were not remitted to the office until 4 days after collection. However, based on documentation provided to us during the examination, we could not determine the reasons for the delay from the information provided at that time. We appreciate the MDJ providing further information regarding the delay in the constable's remittance of the funds collected.

Regarding 3 of 6 warrants with field collections for the time period the MDJ assumed office were not properly signed, we appreciate the MDJ providing further information as to why these warrants were not properly signed by the defendant. Once again, based on the documentation provided to us during the examination, we could not determine the reasons why warrants were not properly signed by the defendant.

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

Auditors Conclusion (Continued):

Finally, regarding the 1 of 11 warrants that did not have the amount collected properly documented, we concur that this issue happened prior to the current MDJ's time in office. However, this issue did occur during the examination period of the office.

Magisterial District Judges have the power to choose the independent contractors who will perform services on behalf of the court. They also have the authority to dictate minimum standards of satisfactory performance, so long as the standards are not inconsistent with pertinent statutes and Rules of Court. Such standards should include the requirement that constables or other third parties 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.

Please be aware that examinations of the Commonwealth of Pennsylvania District Courts are performed on the office and not the officeholder. Although we recognize the efforts of the current officeholder to correct the issues cited in the above finding, we are responsible for reporting all issues that encompass the entire examination period of January 1, 2009 to December 31, 2014.

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

DISTRICT COURT 41-3-04  
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 Michael E. Schechterly**  
Magisterial District Judge

**The Honorable Brenda K. Benner**  
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).