

# ATTESTATION ENGAGEMENT

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District Court 09-1-02  
Cumberland County, Pennsylvania  
For the Period  
January 1, 2013 to December 31, 2015

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August 2017



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 C. Daniel Hassell  
Secretary  
Pennsylvania Department of Revenue  
Harrisburg, PA 17128

We have examined the accompanying statement of receipts and disbursements (Statement) of District Court 09-1-02, Cumberland County, Pennsylvania (District Court), for the period January 1, 2013 to December 31, 2015, 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, 2013 to December 31, 2015, 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.

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. 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.

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. Given these limitations, during our engagement we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified. We did identify a certain deficiency in internal control, described in the finding listed below, that we consider to be a significant deficiency:

- Inadequate Arrest Warrant And DL-38 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. The results of our tests disclosed no 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.

Independent Auditor's Report (Continued)

We appreciate the courtesy extended by the District Court 09-1-02, Cumberland 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", with a long horizontal flourish extending to the right.

August 8, 2017

Eugene A. DePasquale  
Auditor General

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DISTRICT COURT 09-1-02  
CUMBERLAND COUNTY  
STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2013 TO DECEMBER 31, 2015

Receipts:

Department of Transportation	
Title 75 Fines	\$ 299,526
Littering Law Fines	2,221
Child Restraint Fines	1,763
Department of Revenue Court Costs	281,961
Crime Victims' Compensation Bureau Costs	26,468
Crime Commission Costs/Victim Witness Services Costs	18,906
Domestic Violence Costs	7,509
Department of Agriculture Fines	300
Emergency Medical Service Fines	144,787
CAT/MCARE Fund Surcharges	488,487
Judicial Computer System Fees	143,499
Access to Justice Fees	39,312
Criminal Justice Enhancement Account Fees	5,490
Judicial Computer Project Surcharges	36,495
Constable Service Surcharges	14,026
Miscellaneous State Fines and Costs	<u>174,985</u>
Total receipts (Note 2)	1,685,735
Disbursements to Commonwealth (Note 3)	<u>(1,685,735)</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, 2013 to December 31, 2015	<u><u>\$ -</u></u>

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

DISTRICT COURT 09-1-02  
CUMBERLAND COUNTY  
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2013 TO DECEMBER 31, 2015

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	\$ 1,685,208
Liquor Control Board	<u>527</u>
Total	<u>\$ 1,685,735</u>

4. Balance Due Commonwealth (District Court) For The Period January 1, 2013 To December 31, 2015

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 S. Beckley served at District Court 09-1-02 for the period January 1, 2013 to December 31, 2015.

DISTRICT COURT 09-1-02  
CUMBERLAND COUNTY  
FINDING AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2013 TO DECEMBER 31, 2015

**Finding - Inadequate Arrest Warrant And DL-38 Procedures**

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 in a timely manner. We tested 36 instances in which a warrant was required to be issued. Our testing disclosed that 10 were not issued timely. The time of issuance ranged from 66 days to 105 days.

In addition, of 36 warrants required to be returned or recalled, 9 were not returned or recalled, and 11 were not returned timely. The time of issuance to the time of return ranged from 181 days to 595 days.

Furthermore, we tested 16 instances in which a DL-38 was required to be issued. Our testing disclosed that 4 were not issued timely. The time of issuance ranged from 61 days to 88 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. 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 09-1-02  
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FOR THE PERIOD  
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**Finding - Inadequate Arrest Warrant And DL-38 Procedures (Continued)**

According to Pa.R.Crim.P. 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 10 days to respond. If on the eleventh day, the defendant has not responded, 75 Pa.C.S. §1533 requires that the defendant be notified that he/she has 15 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 09-1-02  
CUMBERLAND COUNTY  
FINDING AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2013 TO DECEMBER 31, 2015

**Finding - Inadequate Arrest Warrant And DL-38 Procedures (Continued)**

In addition, 75 Pa.C.S. §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.

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 recommend that the district court review the tickler reports for warrants and DL-38s daily and take appropriate action as required by the Manual. We further recommend that the court review warrant control reports and notify police or other officials to return warrants that are unserved for 60 days for summary traffic and non-traffic cases as recommended by the Manual.

**Management's Response**

The Magisterial District Judge responded as follows:

In November 2012, one of our staff members retired. Due to a county hiring freeze, and despite multiple requests, we were not permitted to replace the staff person until July 23, 2013, nearly nine months later.

In April 2014, our long term office manager transferred to [another county office]. My current office manager became the manager and we hired another new employee who began on May 13, 2014.

We spent two years with other courts lending us staff members a day here or there, as they were able, so that we could keep up with the walk-in traffic and our deposits. The County finally allowed us to hire yet another staff member on March 31, 2015. That staff person was here for two months before he transferred to a different court on May 29, 2015, and the same day we had another new staff member begin in our office.

During this time frame, the number of new cases remained relatively the same with the exception of traffic cases. New traffic cases went from a total of 2,970 in 2012 to 4,629 in 2013 to 6,379 in 2014 and 5,184 in 2015.

DISTRICT COURT 09-1-02  
CUMBERLAND COUNTY  
FINDING AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2013 TO DECEMBER 31, 2015

**Finding - Inadequate Arrest Warrant And DL-38 Procedures (Continued)**

**Management's Response (Continued)**

Not only was our office manager learning the ropes of her new position, we were short staffed and she was constantly training new people. It is also important to note, that there were days where we had to close our office early to the public just so that we could input all of the funds received that day into the system to ensure that they could be included in the daily deposit so that no money remained in the office overnight. There were also Fridays where we would close to the public altogether, just so that the staff could keep up with the increasing workload.

When I started in this office on January 1, 2012, the procedure was and always had been that defendants were given 30 days to respond to citations even though the citation and the rules provide defendants 10 days. Given that most creditors allow 30 days for payment, allowing 30 days to respond to a citation, a policy established by my predecessor, seemed fair to me, and I continued that policy. Furthermore, defendants routinely call the office when the 10<sup>th</sup> day is about to or did expire and say they just received the citation which confirmed my belief that continuing to give 30 days was the right thing to do.

I have reviewed Pa.R.Crim.P. 430, 431, 454, 455, 456, 460, 461 and 462. I have also reviewed the procedural manual as well as 75 Pa.C.S. §1533. None of the rules, the statute, nor the procedural manual appear to prohibit the use of judicial discretion to extend the time for defendants to respond, and judges at all levels of the unified judicial system routinely grant continuances of deadlines. When you apply 30 days to each instance, you will see that this also affects the timing of when the DLs should issue and when the warrants will then issue.

With regard to the return of warrants, I think it is important to note that the AOPC recognized that returning warrants within 60 days was a waste of manpower and resources and increased the time frame to 120 days in November 2016. Again, having reviewed this policy (both old and new versions) the policy says the warrants “should” be returned. It does not say that it “shall” be returned and it does not say that I do not have the judicial discretion to extend the time period in which the constable has to effectuate service.

DISTRICT COURT 09-1-02  
CUMBERLAND COUNTY  
FINDING AND RECOMMENDATIONS  
FOR THE PERIOD  
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**Finding - Inadequate Arrest Warrant And DL-38 Procedures (Continued)**

**Management's Response (Continued)**

We have had annual county audits every year since I began this job and we did have one previous state audit. None of these audits indicated that I did not have the judicial discretion to extend the time for the defendant to respond to a citation to 30 days, even though to my understanding that policy has been followed in this office for more than two decades, or that I was not able to extend the time frame in which the constable had to return warrants.

Given the manpower we were given during this audit period and how much our numbers increased year-after-year, I think the staff in this office has done a fine job.

**Auditor's Conclusion**

Although we recognize the district court's concerns about staffing and the high volume of work, it is imperative that warrants and DL-38s are issued timely to enforce the collection of monies. We understand that the AOPC has increased the time frame of the return of warrants from 60 days to 120 days in December 2016. However, our examination covers the period January 1, 2013 to December 31, 2015. Therefore, we are using the 60 day time frame that was in effect during the examination period.

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 said standards are not inconsistent with pertinent statutes and Rules of Court. Such standards should include the requirement that constables or other third parties return warrants when requested. During our next examination, we will determine if the district court complied with our recommendations.

DISTRICT COURT 09-1-02  
CUMBERLAND COUNTY  
SUMMARY OF PRIOR EXAMINATION RECOMMENDATION  
FOR THE PERIOD  
JANUARY 1, 2013 TO DECEMBER 31, 2015

Summary Of Prior Examination Recommendation

During our prior examination, we recommended that the office:

- Obtain a validation from the bank as to the mix of cash and checks deposited and that the validation is reconciled to the receipts by someone other than the person preparing or making the deposit.

During our current examination, we noted that the office complied with our recommendation.

DISTRICT COURT 09-1-02  
CUMBERLAND COUNTY  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2013 TO DECEMBER 31, 2015

This report was initially distributed to:

**The Honorable C. Daniel Hassell**  
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 S. Beckley**  
Magisterial District Judge

**The Honorable Vincent T. DiFilippo**  
Chairperson of the Board of Commissioners

**The Honorable Alfred Whitcomb**  
Controller

**Ms. Melissa H. Calvanelli**  
District Court Administrator

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