

# ATTESTATION ENGAGEMENT

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District Court 32-1-23  
Delaware County, Pennsylvania  
For the Period  
January 1, 2012 to December 31, 2015

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October 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 32-1-23, Delaware County, Pennsylvania (District Court), for the period January 1, 2012 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 presenting this Statement in accordance with the criteria set forth in Note 1. 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. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Statement is presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the statement of receipts and disbursements. The nature, timing and extent of the procedures selected depend on our judgement, including an assessment of the risks of material misstatement of the Statement, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide 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*.

### Independent Auditor's Report (Continued)

In our opinion, the Statement referred to above, for the period January 1, 2012 to December 31, 2015, is presented in accordance with the criteria set forth in Note 1, in all material respects.

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 and significant deficiencies.

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 deficiency listed below to be a material weakness:

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

A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the deficiency listed below to be a significant deficiency:

- Inadequate Arrest Warrant Procedures - Recurring.

Independent Auditor's Report (Continued)

As part of obtaining reasonable assurance about whether the Statement is free from material misstatement, we performed tests of the District Court's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of Statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our engagement, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

The examination finding contained in this report cite conditions that existed in the operation of the District Court during the previous engagement period and were not corrected during the current examination period. The District Court should strive to implement the recommendations noted in this report.

The purpose of this report is to determine whether all moneys collected on behalf of the Commonwealth have been correctly assessed, reported and promptly remitted. This report is not suitable for any other purposes.

We appreciate the courtesy extended by the District Court 32-1-23, 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

September 8, 2017

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DISTRICT COURT 32-1-23  
DELAWARE COUNTY  
STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2015

Receipts:

Department of Transportation	
Title 75 Fines	\$ 73,863
Littering Law Fines	175
Child Restraint Fines	2,562
Department of Revenue Court Costs	138,218
Crime Victims' Compensation Bureau Costs	11,324
Crime Commission Costs/Victim Witness Services Costs	8,170
Domestic Violence Costs	2,702
Emergency Medical Service Fines	36,163
CAT/MCARE Fund Surcharges	99,190
Judicial Computer System Fees	65,107
Access to Justice Fees	18,708
Criminal Justice Enhancement Account Fees	4,179
Judicial Computer Project Surcharges	26,001
Constable Service Surcharges	18,862
Miscellaneous State Fines and Costs	<u>82,202</u>
Total receipts (Note 2)	587,426
Disbursements to Commonwealth (Note 3)	<u>(587,426)</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, 2012 to December 31, 2015	<u>\$ -</u>

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

DISTRICT COURT 32-1-23  
DELAWARE COUNTY  
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2012 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	\$ <u>587,426</u>
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4. Balance Due Commonwealth (District Court) For The Period January 1, 2012 To December 31, 2015

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

5. Magisterial District Judges Serving During Examination Period

Several Senior Judges served at District Court 32-1-23 for the period January 1, 2012 to December 31, 2013.

Gregory J. Loftus served at District Court 32-1-23 for the period January 1, 2014 to December 31, 2015.

DISTRICT COURT 32-1-23  
DELAWARE COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2015

**Finding No. 1 - Inadequate Arrest Warrant Procedures - Recurring**

We cited the district court for inadequate arrest warrant procedures in the prior examination for the period January 1, 2008 to December 31, 2011. Our current examination found that the district court did not correct this issue.

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 46 instances in which a warrant was required to be issued. Our testing disclosed that one was not issued and 11 were not issued timely. The time issuance ranged from 61 to 245 days.

In addition, of 45 warrants required to be returned or recalled, 15 were not returned or recalled, and 16 were not returned timely. The time of issuance to the time of return ranged from 261 days to 819 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.

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.



DISTRICT COURT 32-1-23  
DELAWARE COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2015

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

- 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.

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.

This condition existed because the district court failed to review the tickler reports for warrants daily as recommended in the prior examination report. 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 strongly 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 32-1-23  
DELAWARE COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2015

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

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. 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 Warrant Returns are processed in a timely manner, while addressing the backlog that existed. The Regional Assistant Administrators have routinely monitored the progress and have assisted in correcting the problems.

Auditor's Conclusion

This is a recurring finding. It is imperative that the district court take all steps necessary to comply with our recommendations. During our next examination, we will determine if the district court complied with our recommendations.

DISTRICT COURT 32-1-23  
DELAWARE COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2015

**Finding No. 2 - Failure To Follow The Supreme Court Of Pennsylvania Administrative Office Of Pennsylvania Courts Record Retention And Disposition Schedule With Guidelines Procedures**

Our examination disclosed that traffic and non-traffic citations issued in between January 1, 2012 and December 31, 2012 were not available for examination and were destroyed in April 2016 by the district court without being in compliance with the procedures described in the *Supreme Court of Pennsylvania Administrative Office of Pennsylvania Courts Record Retention & Disposition Schedule with Guidelines* (Schedule).

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

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

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

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

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

The district court stated that the records were damaged in a flood and they were subsequently destroyed.

DISTRICT COURT 32-1-23  
DELAWARE COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2015

**Finding No. 2 - Failure To Follow The Supreme Court Of Pennsylvania Administrative Office  
Of Pennsylvania Courts Record Retention And Disposition Schedule With  
Guidelines Procedures (Continued)**

**Recommendations**

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

**Management's Response**

The Magisterial District Judge responded as follows:

This is a one-time situation, which was related to a flood at the court. As a result of a pipe burst, the storage area at the court was flooded, resulting in some files from 2012 being destroyed. It has been properly documented that the files were destroyed and not missing. We do not anticipate a reoccurrence of this issue.

**Auditor's Conclusion**

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

DISTRICT COURT 32-1-23  
DELAWARE COUNTY  
SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2012 TO DECEMBER 31, 2015

Summary Of Prior Examination Recommendations

During our prior examination, we recommended 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.

During our current examination, we found that the district court partially complied with our recommendation regarding DL-38s. However, the court did not comply with our recommendation regarding warrants. Please see the current year Finding No. 1 for additional information.

DISTRICT COURT 32-1-23  
DELAWARE COUNTY  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2012 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 Gregory J. Loftus**  
Magisterial District Judge

**The Honorable Mario J. Civera, Jr.**  
Chairperson of the Board of Commissioners

**The Honorable Edward O'Lone**  
Controller

**Gerald C. Montella, Esq.**  
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).