



**DISTRICT COURT 02-3-07
LANCASTER COUNTY
EXAMINATION REPORT
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2011**

COMMONWEALTH OF PENNSYLVANIA

EUGENE A. DEPASQUALE - AUDITOR GENERAL

DEPARTMENT OF THE AUDITOR GENERAL



DISTRICT COURT 02-3-07

LANCASTER COUNTY

EXAMINATION REPORT

FOR THE PERIOD

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EUGENE A. DePASQUALE
AUDITOR GENERAL

Independent Auditor's Report

The Honorable Daniel P. Meuser
Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We have examined the accompanying statement of receipts and disbursements (Statement) of District Court 02-3-07, Lancaster County, Pennsylvania (District Court), for the period January 1, 2007 to December 31, 2011, pursuant to the requirements of Section 401(c) of *The Fiscal Code*, 72 P.S. § 401(c). This Statement is the responsibility of the District Court's management. 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. An examination includes 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*.

Independent Auditor's Report (Continued)

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, 2007 to December 31, 2011, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report findings of significant deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Statement and any fraud and illegal acts that are more than inconsequential that come to our attention during our examination. We are also required to obtain the views of management on those matters. 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 the internal control over reporting on the Statement or on compliance and other matters; accordingly, we express no such opinions.

A control deficiency 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 misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the District Court's ability to initiate, authorize, record, process, or report data reliably in accordance with the applicable criteria such that there is more than a remote likelihood that a misstatement of the District Court's Statement that is more than inconsequential will not be prevented or detected by the District Court's internal control. We consider the deficiency described in the finding below to be a significant deficiency in internal control over reporting on the Statement:

- Inadequate Arrest Warrant And DL-38 Procedures.

A material weakness is a significant deficiency or combination of significant deficiencies that results in more than a remote likelihood that a material misstatement of the Statement will not be prevented or detected by the District Court's internal control. Our consideration of the internal control over reporting on the Statement would not necessarily disclose all matters in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we believe that the significant deficiency described above is not a material weakness.

Independent Auditor's Report (Continued)

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.

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.

April 18, 2013

EUGENE A. DEPASQUALE
Auditor General

DISTRICT COURT 02-3-07
LANCASTER COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2011

Receipts:

Department of Transportation		
Title 75 Fines	\$	884,130
Motor Carrier Road Tax Fines		2,918
Overweight Fines		9,043
Commercial Driver Fines		34,544
Littering Law Fines		984
Child Restraint Fines		1,639
Department of Revenue Court Costs		301,484
Crime Victims' Compensation Bureau Costs		22,708
Crime Commission Costs/Victim Witness Services Costs		16,265
Domestic Violence Costs		4,701
Department of Agriculture Fines		1,615
Emergency Medical Service Fines		178,077
CAT/MCARE Fund Surcharges		559,028
Judicial Computer System Fees		161,603
Access to Justice Fees		41,163
Criminal Justice Enhancement Account Fees		1,839
Judicial Computer Project Surcharges		8,366
Constable Service Surcharges		10,442
PA Turnpike Commission		698
Office of UC tax service		5,076
PA Department of Revenue		684
Miscellaneous State Fines		20,302
		<hr/>
Total receipts (Note 2)		2,267,309
Disbursements to Commonwealth (Note 3)		<hr/> (2,267,309)
Balance due Commonwealth (District Court) per settled reports (Note 4)		-
Examination adjustments		<hr/> -
Adjusted balance due Commonwealth (District Court) for the period January 1, 2007 to December 31, 2011	\$	<hr/> <hr/> -

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

DISTRICT COURT 02-3-07
LANCASTER COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2011

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	\$ 2,261,535
Pennsylvania Turnpike	698
Department of Labor and Industry	<u>5,076</u>
Total	<u><u>\$ 2,267,309</u></u>

4. Balance Due Commonwealth (District Court) For The Period January 1, 2007 To December 31, 2011

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

5. Magisterial District Judge Serving During Examination Period

Nancy G. Hamill served at District Court 02-3-07 for the period January 1, 2007 to December 31, 2011.

DISTRICT COURT 02-3-07
LANCASTER COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2011

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 when required. We tested 55 instances in which a warrant was required to be issued. Our testing disclosed that nine were not issued timely. The time of issuance ranged from 71 days to 256 days.

In addition, of 51 warrants required to be returned or recalled, 20 were not returned timely. The time of issuance to the time of return ranged from 184 days to 1,357 days.

Furthermore, we tested 18 instances in which a DL-38 was required to be issued. Our testing disclosed that seven were not issued timely. The time of issuance ranged from 64 days to 224 days.

The Manual establishes the uniform written internal control policies and procedures for all district courts.

Warrant Issuance Procedures: The Manual states that on October 1, 1998, new warrant procedures took effect for summary cases. Amendments were made to Pa.R.Crim.P. Rules 430, 431, 454, 455, 456, 460, 461, and 462. To comply with the new changes, the Notice of Impending Warrant (AOPC A418) was created with the purpose of informing the defendant that failure to pay the amount due or to appear for a Payment Determination Hearing will result in the issuance of an arrest warrant. The defendant is also informed that his/her response must be made within ten days of the date of the notice.

DISTRICT COURT 02-3-07
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FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2011

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

According to Pa.R.Crim.P. Rule 430, a Notice of Impending Warrant may be issued in a post-disposition summary case for any of the following reasons:

- A guilty disposition is recorded and no payment is made or a time payment schedule is not created.
- A guilty disposition is recorded and a previously deposited collateral payment, when applied, does not pay the case balance in full.
- A guilty disposition is recorded and the defendant defaults on a time payment schedule.

According to Pa.R.Crim.P. 430, a warrant SHALL be issued in a summary case for any of the following reasons (a Notice of Impending Warrant is not necessary for the following):

- The defendant has failed to respond to a citation or summons that was served either personally or by certified mail, return receipt requested.
- The citation or summons is returned undeliverable.
- The Magisterial District Judge has reasonable grounds to believe that the defendant will not obey a summons.

Warrant Return Procedures: The Manual states that the Administrative Office of Pennsylvania Courts (AOPC) recommends that those in possession of arrest warrants should be notified to return warrants that have not been served. For summary traffic and non-traffic cases, outstanding warrants should be returned to the Magisterial District Judge's office within 60 days of issuance. Returned warrants can either be recorded in the Magisterial District Judge System (MDJS) as unserved, if the defendant is unable to be located; or they can be recalled for reissue, if the server has not exhausted all means of finding the defendant.

DL-38 Procedures: The Manual states that once a citation is given to the defendant or a summons is issued, the defendant has ten days to respond. If on the eleventh day, the defendant has not responded, 75 Pa.C.S.A. §1533 requires that the defendant be notified that he/she has fifteen days from the date of notice to respond to the citation/summons before his/her license is suspended. In accordance with Section 1533 of the *Pennsylvania Vehicle Code*, the defendant has 15 days to respond to the defendant's copy of the DL-38. If the defendant does not respond by the fifteenth day, the Magisterial District Judge's office shall notify the Pennsylvania Department of Transportation by issuing the appropriate License Suspension Request (AOPC 638B,D,E).

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

In addition, 75 Pa.C.S.A. §1533 also requires a post-disposition DL-38 (AOPC 638B/E) be issued if the defendant neglects to pay fines and costs imposed at the time of disposition, or fails to make a scheduled time payment.

The failure to follow warrant and DL-38 procedures could result in uncollected fines and unpunished offenders. Additionally, the risk is increased for funds to be lost or misappropriated.

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 required by the Manual.

Management's Response

The Magisterial District Judge responded as follows:

As in all MDJ offices, we have to prioritize what tasks are done in what order. In this office, when we have more to do in a given amount of time than can be done, I have my staff receipt all payments received at the window and by mail as a top priority. Then, the criminal cases and Landlord/Tenant cases have to be entered, served and hearings set (and continued with the parties, if necessary, which is often with criminal cases) and case follow-ups done, as necessary. Then all other cases need to be docketed, with trials and sentencing hearings set as necessary. Then, there is the matter of answering the phone and waiting on customers at the counter, and both of these are very time consuming and often don't reflect anywhere in statistical numbers. And yes, we do try to get to the warrants and DL-38's in a timely manner, but they are lower on the list than the above mentioned items. And as far as getting warrants back from servers, we contact them to get them back, but they don't always comply.

DISTRICT COURT 02-3-07
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FINDING AND RECOMMENDATIONS
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Finding - Inadequate Arrest Warrant And DL-38 Procedures (Continued)

Management's Response (Continued)

Staffing definitely effects how things get done in every office. I have three clerks, and during the time frames of this audit, they had five weeks, four weeks and three weeks (and ultimately) vacation, and four days each of "personal time" and sick days. Two of these clerks took very little sick time, but one took a lot. While I didn't go back to 2007, I did look at 2008, 2009, 2010, and the last mentioned employee was here four out of five days in 2008, and only three and half days out of five in 2009 and 2010, then she retired in 2010 and wasn't here at all November and December 2010. Then one of the remaining clerks left the office in early February 2011, and the remaining person was here by herself for over a month, when one new person was hired, then another a month after that in 2011. The remaining person had to train each of these new people. This new team of clerks has done a good job "catching up," but has been learning since early 2011 through December 2011 (and are still learning). Now, our warrants and DL-38's are kept up to date much better that the time period covered in this audit, though the prioritization remains the same.

Auditor's Conclusion

We will determine if the district court complied with our recommendations during our next examination.

DISTRICT COURT 02-3-07
LANCASTER COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2011

This report was initially distributed to:

The Honorable Daniel P. Meuser
Secretary
Pennsylvania Department of Revenue

The Honorable Zygmunt Pines
Court Administrator of Pennsylvania
Supreme Court of Pennsylvania
Administrative Office of Pennsylvania Courts

The Honorable Nancy G. Hamill	Magisterial District Judge
The Honorable Scott Martin	Chairman of the Board of Commissioners
The Honorable Walter Rogers	Controller
Mr. Mark M. Dalton	District Court Administrator

This report is a matter of public record and is available online at www.auditorgen.state.pa.us. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: news@auditorgen.state.pa.us.