

ATTESTATION ENGAGEMENT

District Court 02-1-01
Lancaster County, Pennsylvania
For the Period
January 1, 2015 to December 31, 2017

April 2019



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 02-1-01, Lancaster County, Pennsylvania (District Court), for the period January 1, 2015 to December 31, 2017, 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, 2015 to December 31, 2017, 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.

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*.

Independent Auditor's Report (Continued)

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 02-1-01, Lancaster 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

March 1, 2019

CONTENTS

	<u>Page</u>
Financial Section:	
Statement Of Receipts And Disbursements.....	1
Notes To The Statement Of Receipts And Disbursements.....	2
Finding And Recommendation:	
Finding - Inadequate Arrest Warrant And DL-38 Procedures	3
Report Distribution	7

DISTRICT COURT 02-1-01
LANCASTER COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2017

Receipts:

Department of Transportation		
Title 75 Fines	\$	95,858
Child Restraint Fines		1,182
Department of Revenue Court Costs		220,618
Crime Victims' Compensation Bureau Costs		22,923
Crime Commission Costs/Victim Witness Services Costs		16,453
Domestic Violence Costs		6,446
Department of Agriculture Fines		230
Emergency Medical Service Fines		21,087
CAT/MCARE Fund Surcharges		73,535
Judicial Computer System Fees		91,705
Access to Justice Fees		30,256
Criminal Justice Enhancement Account Fees		8,178
Judicial Computer Project Surcharges		74,245
Constable Service Surcharges		29,076
Miscellaneous State Fines and Costs		<u>28,130</u>
 Total receipts (Note 2)		 719,922
 Disbursements to Commonwealth (Note 3)		 <u>(719,922)</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, 2015 to December 31, 2017	 \$	 <u><u>-</u></u>

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

DISTRICT COURT 02-1-01
LANCASTER COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2017

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	\$ 719,922
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4. Balance Due Commonwealth (District Court) For The Period January 1, 2015 To December 31, 2017

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

5. Magisterial District Judges Serving During Examination Period

John C. Winters served at District Court 02-1-01 for the period January 1, 2015 to December 31, 2015.

Adam J. Witkonis, Esquire served at District Court 02-1-01 for the period January 1, 2016 to December 31, 2017.

DISTRICT COURT 02-1-01
LANCASTER COUNTY
FINDING AND RECOMMENDATION
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2017

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 37 instances in which a warrant was required to be issued timely. Our testing disclosed that 15 were not issued timely. The time of issuance ranged from 62 days to 153 days.

Furthermore, we tested 16 instances in which a DL-38 was required to be issued. Our testing disclosed that six were not issued timely and one was not issued at all. The time of issuance ranged from 71 days to 118 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 02-1-01
LANCASTER COUNTY
FINDING AND RECOMMENDATION
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2017

Finding - Inadequate Arrest Warrant And DL-38 Procedures (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.

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. §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).

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.

Recommendation

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.

DISTRICT COURT 02-1-01
LANCASTER COUNTY
FINDING AND RECOMMENDATION
FOR THE PERIOD
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Finding - Inadequate Arrest Warrant And DL-38 Procedures (Continued)

Management's Response

The Magisterial District Judge responded as follows:

The single finding of this audit arises out of three factors; a substantial increase in overall caseload, the large amount of defaults on payment plans, which requires issuing of warrants and DL-38s on old cases, and prioritization of a high workload duties. Out of the many possible findings that state auditors could issue, it is not a surprise that this court was untimely on issuing warrants and DL-38 notices. It should be noted that warrants are being issued, it comes down to timeliness. Also, it should be noted that in cases of default payments, the underlining violation has been decided. The individuals who have defaulted are held accountable.

This district court, has more cases in four (traffic, non-traffic, criminal, and landlord tenant) of the five categories that district courts have jurisdiction than all of the other district courts in Lancaster County. Since 2015, this district court has seen a significant increase in cases. In 2015, 7,351 cases were docketed, followed by 8,367 cases for 2016. By 2017, the amount of cases rose to 9,278. The trend is still going higher with 2018 seeing the largest increase so far with 11,923 being docketed. This represents an increase of 4,572 cases docketed since 2015. To put that in perspective, in 2017, there were five of the 19 district courts in Lancaster County that did not reach 4,000 docketed cases with the second busiest court seeing 7,684 cases. During this audit period, the amount of allotted staff positions has remained the same. In addition, this district court has had periods of staff shortages, with the part time position vacant for quite some time. With the significant increase in caseload, any loss of staff is strongly felt.

As with any job, staff must prioritize work. Many things must be done immediately, such as answering phone calls, handling payments and inquiries at the front window, and new dispositions and payment plans from the court. Then there are items that have very short time frames, such as scheduling preliminary hearings in criminal case and hearings in landlord tenant cases. Other types of cases have longer time frames but must be scheduled in timely manner such as summary trials, non-traffic and traffic cases. These do take priority, because it is important for every litigant to have their day in court and be heard. The issuing of warrants and DL-38 notices fall lower on priorities list. In many of the cases were warrants and DL-38 notices are required, the underlying matter has already been decided. It is the court's challenge to hold people accountable, which ultimately, they are.

DISTRICT COURT 02-1-01
LANCASTER COUNTY
FINDING AND RECOMMENDATION
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Finding - Inadequate Arrest Warrant And DL-38 Procedures (Continued)

Frequently, when warrants are issued, individuals come in who are not ignoring the court's order, instead, they are truly indigent, through no fault of their own, and cannot pay or are only able to pay very little. This leads to the warrant being rescinded and a new payment determination hearing being scheduled and a new payment plan ordered. This process can be repeated numerous times. The Magisterial District Courts need more tools to stop this perpetual cycle of warrants and defaults that will hold individuals accountable, benefit the community, and in turn, decrease the need for warrants and DL-38 notices on moneys that will probably never be collected.

In conclusion, while it is disappointing to have any finding in an audit, this finding is not surprising given the significant increase in caseload and where the issuing of warrants and DL38 notices fall in staff workload prioritization. With that said, this court takes very seriously any finding from an audit. This court will do everything it can do to improve the timeliness of issuing warrants and DL-38 notices and welcomes the recommendations from the auditor.

The court is already taking steps to eliminate this issue. Since the audit finding the office's part time staff member has been made full time which will allow more time to be dedicated to this issue.

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

DISTRICT COURT 02-1-01
LANCASTER COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2015 TO DECEMBER 31, 2017

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 Adam J. Witkonis
Magisterial District Judge

The Honorable Joshua Parsons
Chairperson of the Board of Commissioners

The Honorable Brian Hurter
Controller

Mr. Mark M. Dalton
District Court Administrator

This report is a matter of public record and is available online at 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.