

ATTESTATION ENGAGEMENT

District Court 23-1-03
Berks County, Pennsylvania
For the Period
January 1, 2014 to December 31, 2017

July 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 23-1-03, Berks County, Pennsylvania (District Court), for the period January 1, 2014 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, 2014 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 - Recurring.

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 examination finding contained in this report cites 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 and corrective actions 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 23-1-03, Berks 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

June 12, 2019

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DISTRICT COURT 23-1-03
 BERKS COUNTY
 STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2014 TO DECEMBER 31, 2017

Receipts:

Department of Transportation		
Title 75 Fines	\$	127,122
Littering Law Fines		13
Child Restraint Fines		3,452
Department of Revenue Court Costs		255,725
Crime Victims' Compensation Bureau Costs		16,801
Crime Commission Costs/Victim Witness Services Costs		11,962
Domestic Violence Costs		4,034
Emergency Medical Service Fines		30,826
CAT/MCARE Fund Surcharges		112,332
Judicial Computer System Fees		114,379
Access to Justice Fees		48,058
Criminal Justice Enhancement Account Fees		24,146
Judicial Computer Project Surcharges		203,388
Constable Service Surcharges		33,924
Miscellaneous State Fines and Costs		<u>38,958</u>
 Total receipts (Note 2)		 1,025,120
 Disbursements to Commonwealth (Note 3)		 <u>(1,025,120)</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, 2014 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 23-1-03
BERKS COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2014 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	<u>\$ 1,025,120</u>
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4. Balance Due Commonwealth (District Court) For The Period January 1, 2014 To December 31, 2017

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

5. Prior Examination Period Balance Due

We noted that there was a prior examination balance due to the Commonwealth of \$2,427.00 which was not paid as of the end of our current examination period.

DISTRICT COURT 23-1-03
BERKS COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

6. Magisterial District Judges Serving During Examination Period

Wally Scott served at District Court 23-1-03 for the period January 1, 2014 to December 31, 2014.

Paul Hadzic, Senior Magisterial District Judge served at District Court 23-1-03 for the period January 1, 2015 to December 31, 2015.

Kyley L. Scott served at District Court 23-1-03 for the period January 1, 2016 to December 31, 2017.

DISTRICT COURT 23-1-03
BERKS COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

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

We cited the district court for inadequate arrest warrant and DL-38 procedures in the previous examination for the period January 1, 2010 to December 31, 2013. Our current examination found that the office did not correct this issue.

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 61 instances in which a warrant was required to be issued. Our testing disclosed that seven were not issued timely and two were not issued at all. The time of issuance ranged from 69 days to 424 days.

In addition, of 59 warrants required to be returned or recalled, four were not returned timely. The time of issuance to the time of return ranged from 187 days to 219 days.

Furthermore, we tested 21 instances in which a DL-38 was required to be issued. Our testing disclosed that eight were not issued timely. The time of issuance ranged from 63 days to 280 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 23-1-03
BERKS COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

Finding - Inadequate Arrest Warrant And DL-38 Procedures - Recurring (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 120 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. §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).

DISTRICT COURT 23-1-03
BERKS COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

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

This condition existed because the district court failed to review the tickler reports for warrants and DL-38s 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 and DL-38s.

Recommendations

We strongly 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 120 days for summary traffic and non-traffic cases as recommended by the Manual.

Management's Response

The Magisterial District Judge responded as follows:

Of the 18 cases listed as exceptions, 8 were prior to MDJ Kyley Scott taking office in 2016. During that time-frame, there was a lot of staff turnover which could have contributed to the lateness of the issuances. Two cases appear to be computer errors, as the cases did not tickle to the warrant list properly after the certified mail was returned unclaimed or accepted. From March 2016 to approximately May 2017, the Court was displaced and didn't have access to all of the physical files. Four of the exceptions listed took place during that time or shortly thereafter, while the staff was still trying to catch up. Also in 2017, there was turnover and then the elimination of the part-time staff which was processing the warrants and DLs, which contributed to lateness. Since 2018, the caseload has dropped and staff is more stabilized, thus warrants and DLs are being issued timely.

DISTRICT COURT 23-1-03
BERKS COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

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

Auditor's Conclusion

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

DISTRICT COURT 23-1-03
BERKS COUNTY
SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

Summary Of Prior Examination Recommendations

During our prior examination, we recommended that the district court:

- Initiate procedures to ensure that all cases are properly filed and contain appropriate documents as outlined in the *Magisterial District Judge Automated Office Clerical Procedures Manual*.
- Provide for greater segregation of duties within the office.
- Establish and implement a procedure whereby outstanding checks are reviewed monthly to determine if there are any long outstanding checks. We further recommended that the district court comply with procedures outline in the *Magisterial District Judge Automated Office Clerical Procedures Manual* relating to outstanding check procedures.
- Review the tickler reports for warrants and DL-38s daily and take appropriate action as required by the *Magisterial District Judge Automated Office Clerical Procedures Manual*.

During our current examination, we noted that the office complied with our first three bulleted recommendations. However, the office did not comply with our fourth bulleted recommendation. Please see the current year finding for additional information.

DISTRICT COURT 23-1-03
BERKS COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2014 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 Kyley L. Scott
Magisterial District Judge

The Honorable Christian Y. Leinbach
Chairperson of the Board of Commissioners

The Honorable Sandy Graffius
Controller

Mr. Stephen A. Weber
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.