



**DISTRICT COURT 23-1-04  
BERKS 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**



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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 23-1-04, Berks 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 deficiencies described in the findings below to be significant deficiencies in internal control over the reporting on the Statement:

- Inadequate Internal Controls Over Manual Receipts - Recurring.
- Inadequate Arrest Warrant And DL-38 Procedures - Recurring.

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, of the significant deficiencies described above, we consider the first bulleted deficiency to be a material weakness.

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)

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 at the end.

April 30, 2014

**EUGENE A. DEPASQUALE**  
Auditor General

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DISTRICT COURT 23-1-04  
 BERKS COUNTY  
 STATEMENT OF RECEIPTS AND DISBURSEMENTS  
 FOR THE PERIOD  
 JANUARY 1, 2007 TO DECEMBER 31, 2011

Receipts:

Department of Transportation	
Title 75 Fines	\$ 157,235
Littering Law Fines	656
Child Restraint Fines	1,675
Department of Revenue Court Costs	1,216,239
Crime Victims' Compensation Bureau Costs	18,505
Crime Commission Costs/Victim Witness Services Costs	13,326
Domestic Violence Costs	4,783
Emergency Medical Service Fines	41,206
CAT/MCARE Fund Surcharges	124,366
Judicial Computer System Fees	653,735
Access to Justice Fees	158,805
Criminal Justice Enhancement Account Fees	3,565
Judicial Computer Project Surcharges	16,168
Constable Service Surcharges	242,274
Miscellaneous State Fines and Costs	<u>2,955</u>
 Total receipts (Note 2)	 2,655,493
 Disbursements to Commonwealth (Note 3)	 <u>(2,655,536)</u>
 Balance due Commonwealth (District Court) per settled reports (Note 4)	  (43)
 Examination adjustments	 <u>-</u>
 Adjusted balance due Commonwealth (District Court) for the period January 1, 2007 to December 31, 2011	  <u>\$ (43)</u>

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

DISTRICT COURT 23-1-04  
BERKS 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	\$ 2,655,536
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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. Prior Examination Period Balance Due

We noted that there was a prior examination balance due the County of \$98 which was not taken as of the end of our current examination period.

6. Magisterial District Judge Serving During Examination Period

Thomas H. Xavios served at District Court 23-1-04 for the period January 1, 2007 to December 31, 2011.

DISTRICT COURT 23-1-04  
BERKS COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2011

Finding No. 1 - Inadequate Internal Controls Over Manual Receipts - Recurring

We cited the issue of inadequate internal controls over manual receipts in the prior examination report for the period ending December 31, 2006. However, our current examination found that the district court did not correct this issue. The Administrative Office of Pennsylvania Courts' (AOPC) policies require computer downtime manual receipts to be issued in the event of a temporary power loss to the district court's computer system. When the computer system is operating again, the computer downtime manual receipt is replaced by an official computer-generated receipt and included in the daily receipts. When the AOPC's policies are not followed, the possibility that funds received by the District Court could be lost or misappropriated increases significantly.

Once again our examination disclosed that required computer downtime manual receipt procedures were not always followed. During our testing, we noted the following:

- The district court was issuing computer downtime manual receipts for payments received at the court after the books were closed out for the day. This resulted in the issuance of 3,400 manual receipts unnecessarily.
- The computer downtime manual receipt log sheets for 20 receipts were not available for review.
- Of 3,400 computer downtime receipts issued there were 35 instances in which the computer downtime manual receipt number was not entered into the computer system when the corresponding computer receipt was generated.

The *Magisterial District Judge Automated Office Clerical Procedures Manual* (Manual) establishes the uniform written internal control policies and procedures for all district courts. The Manual requires that downtime manual receipts be issued in the event of a temporary power loss to the computer system. The Manual also states that the day's work should be cut off as late as possible in order to include as many receipts as possible and still get the deposit to the bank. Transactions after the cutoff hour will be properly dated but included in the next day's work; however, the deposit should be made before staff leave for the day. When the computer system is not operational, the receipt and log sheet should be filled out for each receipt number and the initials of the employee receiving the payment should be documented on the log sheet.



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Finding No. 1 - Inadequate Internal Controls Over Manual Receipts - Recurring (Continued)

These conditions existed because the district court ignored our prior examination recommendation and failed to establish and implement an adequate system of internal controls over computer downtime manual receipts.

Good internal accounting controls ensure that:

- Computer downtime manual receipts are issued in an efficient manner.
- Computer downtime manual receipt log sheets are accounted for and maintained.
- Computer downtime manual receipt numbers are entered in the manual receipt number field on the computer when the corresponding computer receipts are generated.

Adherence to good internal accounting controls and the uniform internal control policies and procedures, as set forth in the Manual, would have ensured that there were adequate internal controls over collections.

Recommendation

We strongly recommend that the district court establish and implement an adequate system of internal controls over computer downtime manual receipts as noted above.

Management's Response

The Magisterial District Judge responded as follows:

Until August 2010 there was no "cut-off time" for payments [to be accepted], thus this court accepted payments until closing using manual receipts and a "hold bag" after the deposit was prepared. The President Judge issued a court order in August 2010 to stop accepting payments after 4:30pm. Since that time, manual receipts are rarely used.

Auditor's Conclusion

This is a recurring finding. We recognize the district court has reduced their use of computer downtime manual receipts. We strongly recommend that the District Court comply with our recommendation.

DISTRICT COURT 23-1-04  
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Finding No. 2 - Inadequate Arrest Warrant And DL-38 Procedures - Recurring

We cited the district court for inadequate arrest warrant and DL-38 procedures in the last three examinations, with the most recent being for the period ending December 31, 2006. However, our current examination found that the district court 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.

Once again, 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 63 instances in which a warrant was required to be issued. Our testing disclosed that ten were not issued timely and one was not issued at all. The time of issuance ranged from 64 days to 385 days.

In addition, of 62 warrants required to be returned or recalled, 22 were not returned or recalled, and 13 were not returned timely. The time of issuance to the time of return ranged from 224 days to 848 days.

Furthermore, we tested 16 instances in which a DL-38 was required to be issued. Our testing disclosed that three were not issued timely and two were not issued at all. The time of issuance ranged from 56 days to 95 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.

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Finding No. 2 - Inadequate Arrest Warrant And DL-38 Procedures - Recurring (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 No. 2 - Inadequate Arrest Warrant And DL-38 Procedures - Recurring (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.

This condition existed because the district court ignored our prior recommendations to review the tickler reports for warrants and DL-38s daily. 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 60 days for summary traffic and non-traffic cases as required by the Manual.

Management's Response

The Magisterial District Judge responded as follows:

When this court handled all parking violations for the City of Reading, we were severely understaffed. Since the parking violations are now filed in proper jurisdiction and there was a re-districting of the city, our caseload/staff ratio is more manageable and we can keep up better with the workload.

Auditor's Conclusion

This is a recurring finding. Although we recognize the district court's concerns regarding staffing and the volume of work, it is imperative that warrants and DL-38s are issued timely to enforce the collection of monies and that unserved warrants are returned on a timely basis.

DISTRICT COURT 23-1-04  
BERKS 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 Thomas H. Xavios	Magisterial District Judge
The Honorable Christian V. Leinbach	Chairman of the Board of Commissioners
The Honorable Sandra M. Graffius	Controller
Mr. Stephen A. Weber	District Court Administrator

This report is a matter of public record and is available online at <http://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](mailto:news@auditorgen.state.pa.us).