



DISTRICT COURT 52-3-05

LEBANON COUNTY

EXAMINATION REPORT

FOR THE PERIOD

JANUARY 1, 2007 TO DECEMBER 31, 2010

## CONTENTS

	<u>Page</u>
Independent Auditor's Report.....	1
Financial Section:	
Statement Of Receipts And Disbursements.....	5
Notes To The Statement Of Receipts And Disbursements.....	6
Findings And Recommendations:	
Finding No. 1 - Failure To Follow The <i>Supreme Court Of Pennsylvania Administrative     Office Of Pennsylvania Courts Record Retention &amp; Disposition Schedule     With Guidelines</i> Procedures.....	9
Finding No. 2 - Inadequate Arrest Warrant And DL-38 Procedures.....	11
Report Distribution .....	15





**Department of the Auditor General  
Commonwealth of Pennsylvania  
Harrisburg, Pennsylvania 17120-0018**

**JACK WAGNER  
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 52-3-05, Lebanon County, Pennsylvania (District Court), for the period January 1, 2007 to December 31, 2010, 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.

Except as discussed in the fourth paragraph, 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)

As discussed in Finding No. 1, the 2007 traffic and non-traffic case files, closed in 2007, were destroyed and not available for the examination. Without these records, we could not perform our standard examination procedures. As a result, the scope of our examination of District Court's Statement was limited, and we were unable to satisfy ourselves by other examination procedures.

In our opinion, except for the effects, if any, of the matters noted in the preceding paragraph, 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 ended December 31, 2010, 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:

Independent Auditor's Report (Continued)

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

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.

March 9, 2012

JACK WAGNER  
Auditor General



DISTRICT COURT 52-3-05  
LEBANON COUNTY  
STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

Receipts:

Department of Transportation		
Title 75 Fines	\$	430,052
Motor Carrier Road Tax Fines		100
Overweight Fines		900
Commercial Driver Fines		432
Littering Law Fines		1,564
Child Restraint Fines		1,148
Department of Revenue Court Costs		327,826
Crime Victims' Compensation Bureau Costs		47,287
Crime Commission Costs/Victim Witness Services Costs		34,103
Domestic Violence Costs		9,740
Department of Agriculture Fines		751
Emergency Medical Service Fines		156,596
CAT/MCARE Fund Surcharges		477,275
Judicial Computer System Fees		166,281
Access to Justice Fees		42,641
Criminal Justice Enhancement Account Fees		2,513
Judicial Computer Project Surcharges		11,434
Constable Service Surcharges		16,071
Miscellaneous State Fines		616
		<hr/>
Total receipts (Note 2)	\$	1,727,330
Disbursements to Commonwealth (Note 3)		<hr/> (1,728,395)
Balance due Commonwealth (District Court) per settled reports (Note 4)		(1,065)
Examination adjustment (Note 5)		<hr/> 1,035
Adjusted balance due Commonwealth (District Court) for the period January 1, 2007 to December 31, 2010	\$	<hr/> <hr/> (30)

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



DISTRICT COURT 52-3-05  
LEBANON COUNTY  
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

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	\$ 1,728,395
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4. Balance Due Commonwealth (District Court) For The Period January 1, 2007 To December 31, 2010

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

5. Examination Adjustment

During our prior examination, January 1, 2004 to December 31, 2006, we determined that there was a balance due to the Commonwealth of \$1,035. This balance due was paid in April 2010.

DISTRICT COURT 52-3-05  
LEBANON COUNTY  
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

6. Magisterial District Judges Serving During Examination Period

Lee R. Lehman served at District Court 52-3-05 for the period January 1, 2007 to December 31, 2009.

Hazel Swisher served at District Court 52-3-05 for the period January 1, 2010 to December 31, 2010.



DISTRICT COURT 52-3-05  
LEBANON COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

Finding No. 1 - Failure To Follow The *Supreme Court Of Pennsylvania Administrative Office Of Pennsylvania Courts Record Retention & Disposition Schedule With Guidelines Procedures*

Our examination disclosed that 2007 traffic/non-traffic citations, closed in 2007, were not available for examination and have been destroyed 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 cases files and documents could be lost or misappropriated.

DISTRICT COURT 52-3-05  
LEBANON COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

Finding No. 1 - Failure To Follow The *Supreme Court Of Pennsylvania Administrative Office Of Pennsylvania Courts Record Retention & 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

No formal response was offered at this time.

DISTRICT COURT 52-3-05  
LEBANON COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

Finding No. 2 - 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 47 instances in which a warrant was required to be issued. Our testing disclosed that 12 were not issued timely and 2 were not issued at all. The time of issuance ranged from 63 days to 490 days.

In addition, of 29 warrants required to be returned or recalled, 11 were not returned timely. The time of issuance to the time of return ranged from 202 days to 433 days.

Furthermore, we tested 17 instances in which a DL-38 was required to be issued. Our testing disclosed that five were issued untimely. The time of issuance ranged from 63 days to 1,056 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 52-3-05  
LEBANON COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

Finding No. 2 - 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

DISTRICT COURT 52-3-05  
LEBANON COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2010

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

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.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.

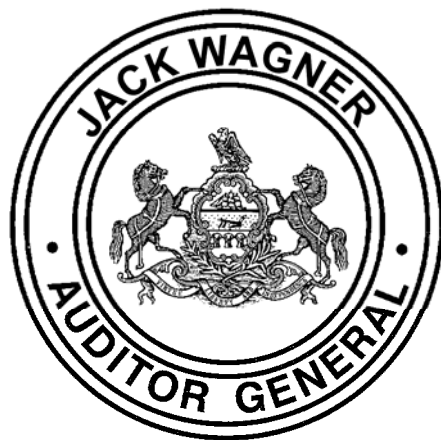
Recommendations

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

No formal response was offered at this time.





DISTRICT COURT 52-3-05  
LEBANON COUNTY  
REPORT DISTRIBUTION  
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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 Hazel Swisher	Senior Magisterial District Judge
The Honorable William G. Carpenter	Chairman of the Board of Commissioners
The Honorable Robert M. Mettley	Controller
David P. Wingert, Esquire	District Court Administrator

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