DISTRICT COURT 45-1-05

LACKAWANNA COUNTY

EXAMINATION REPORT

FOR THE PERIOD

JANUARY 1, 2009 TO DECEMBER 31, 2011

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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 45-1-05, Lackawanna County, Pennsylvania (District Court), for the period January 1, 2009 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*.

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 ended 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 Procedures.

Independent Auditor's Report (Continued)

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.

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.

September 20, 2012

JACK WAGNER
Auditor General

JACK WAGNER

AUDITOR GENERAL

DISTRICT COURT 45-1-05
LACKAWANNA COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2011

Receipts:		
Department of Transportation		
Title 75 Fines	$	68,606
Motor Carrier Road Tax Fines		300
Overweight Fines		550
Commercial Driver Fines		299
Child Restraint Fines		583
Department of Revenue Court Costs		108,690
Crime Victims' Compensation Bureau Costs		17,094
Crime Commission Costs/Victim Witness Services Costs		12,463
Domestic Violence Costs		4,401
Emergency Medical Service Fines		16,712
CAT/MCARE Fund Surcharges		50,592
Judicial Computer System Fees		34,185
Access to Justice Fees		10,070
Criminal Justice Enhancement Account Fees		3,559
Judicial Computer Project Surcharges		16,211
Constable Service Surcharges		8,741
Miscellaneous State Fines		6,301
Total receipts (Note 2)		359,357
Disbursements to Commonwealth (Note 3)		(356,841)
Balance due Commonwealth (District Court) per settled reports (Note 4)		2,516
Examination adjustment (Note 5)		(2,516)
Adjusted balance due Commonwealth (District Court) for the period January 1, 2009 to December 31, 2011	$	-

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

DISTRICT COURT 45-1-05
LACKAWANNA COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2009 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	$ 356,841

4. Balance Due Commonwealth (District Court) For The Period January 1, 2009 To December 31, 2011

This balance reflects the summary of monthly transmittal reports as settled by the Department of Revenue. It does not reflect adjustments disclosed by our examination. Refer to Note 5.

5. Examination Adjustment

Amount represents a payment of $2,516 in September 2011 that did not clear the bank until December 1, 2011 and was not credited by the Department of Revenue.

6. Magisterial District Judge Serving During Examination Period

Terrence V. Gallagher, Esquire, served at District Court 45-1-05 for the period January 1, 2009 to December 31, 2011.

Finding - Inadequate Arrest Warrant Procedures

Warrants 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.

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 28 instances in which a warrant was required to be issued. Our testing disclosed that 16 were not issued timely and 1 was not issued at all. The time of issuance ranged from 61 days to 831 days.

In addition, of 14 warrants required to be returned or recalled, 7 were not returned or recalled, and 4 were not returned timely. The time of issuance to the time of return ranged from 311 days to 825 days. We also noted that there was one returned warrant that was not included in the case file.

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.

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.

Finding - Inadequate Arrest Warrant Procedures (Continued)

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.

The failure to follow warrant 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.

Recommendations

We recommend that the district court review the tickler reports for warrants 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:

> During the period of time the audit covered, one of my staff retired and was not replaced for an extended period of time and another staff member was on

Finding - Inadequate Arrest Warrant Procedures (Continued)

Management's Response (Continued)

> sick leave for a substantial period of time. Consequently, our office was significantly understaffed and out of necessity we were required to prioritize tasks. However, now that we have a full staff compliment and through the efforts of my staff, our office is compliant, current, and up to date.

Auditor's Conclusion

Although we recognize the district court's concerns about staffing, it is imperative that warrants are issued and returned timely to enforce the collection of monies. During our next examination we will determine if the office complied with our recommendations.

JACK WAGNER

AUDITOR GENERAL

DISTRICT COURT 45-1-05
LACKAWANNA COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2011

This report was initially distributed to:

The Honorable Daniel P. Meuser
Secretary
Pennsylvania Department of Revenue

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

The Honorable Terrence V. Gallagher	Magisterial District Judge
The Honorable Jim Wansacz	Chairman of the Board of Commissioners
The Honorable Gary Dibileo	Controller
Mr. Ronald C. Mackay	District Court Administrator

This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, 318 Finance Building, Harrisburg, PA 17120. To view this report online or to contact the Department of the Auditor General, please access our web site at www.auditorgen.state.pa.us.