



DISTRICT COURT 45-3-04
LACKAWANNA COUNTY
EXAMINATION REPORT
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2009

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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 45-3-04, Lackawanna County, Pennsylvania (District Court), for the period January 1, 2007 to December 31, 2009, 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 ended December 31, 2009, 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 And DL-38 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.

February 4, 2011

JACK WAGNER
Auditor General



DISTRICT COURT 45-3-04
LACKAWANNA COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2009

Receipts:

Department of Transportation		
Title 75 Fines	\$ 147,473	
Overweight Fines	225	
Littering Law Fines	259	
Child Restraint Fines	573	
Department of Revenue Court Costs	140,132	
Crime Victims' Compensation Bureau Costs	21,196	
Crime Commission Costs/Victim Witness Services Costs	15,167	
Domestic Violence Costs	6,078	
Department of Agriculture Fines	500	
Emergency Medical Service Fines	48,983	
CAT/MCARE Fund Surcharges	150,861	
Judicial Computer System Fees	59,907	
Access to Justice Fees	14,903	
Criminal Justice Enhancement Account Fees	90	
Judicial Computer Project Surcharges	410	
Constable Service Surcharges	5,601	
Miscellaneous State Fines	<u>16,264</u>	
 Total receipts (Note 2)		 \$ 628,622
 Disbursements to Commonwealth (Note 3)		 <u>(628,622)</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, 2007 to December 31, 2009		 <u>\$ -</u>

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

DISTRICT COURT 45-3-04
LACKAWANNA COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2009

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>628,622</u>
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4. Balance Due Commonwealth (District Court) For The Period January 1, 2007 To December 31, 2009

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

5. Magisterial District Judge Serving During Examination Period

Laura M. Turlip, Esquire served at District Court 45-3-04 for the period January 1, 2007 to December 31, 2009.

DISTRICT COURT 45-3-04
LACKAWANNA COUNTY
FINDING AND RECOMMENDATION
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2009

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 when required. We tested 19 instances in which a warrant was required to be issued. Our testing disclosed that 4 were not issued timely and 11 were not issued at all. The time of issuance ranged from 346 days to 389 days.

Furthermore, we tested 11 instances in which a DL-38 was required to be issued. Our testing disclosed that three were not issued timely and seven were not issued at all. The time of issuance ranged from 60 days to 237 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.

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.

DISTRICT COURT 45-3-04
LACKAWANNA COUNTY
FINDING AND RECOMMENDATION
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Finding - Inadequate Arrest Warrant And DL-38 Procedures (Continued)

- 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.

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).

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.

DISTRICT COURT 45-3-04
LACKAWANNA COUNTY
FINDING AND RECOMMENDATION
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2009

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

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.

Management's Response

The Magisterial District Judge responded as follows:

As the District Court's formal response to your written findings in connection with the 2007-2009 State Audit, our office has suffered a county-imposed staff reduction in the face of an increasing caseload and growing jurisdictional district throughout that period. These obstacles have made it unfeasible for my limited staff to comply with the AOPC audit guidelines, particularly relative to the timely issuance of arrest warrants and DL-38 sanctions.

Our office currently encompasses six (6) large boroughs and townships with a population of approximately 27,000 people, the second largest in Lackawanna County. The office also presently maintains the second largest caseload in the county with approximated case filings from 2007 through 2009 at 3,500, 4,450, and 4,100 respectively. Despite encountering an escalating population and caseload in my judicial district, the county reduced my court staff in 2008 from three (3) administrative clerks down to two (2), yet in an office that previously staffed four (4) clerks. Other district courts in our county that carry inferior caseloads and encompass less populated territories have three (3) staff members. For instance, my current staff handles approximately 2,100 filings individually, whereas the county caseload average is roughly 1,500 filings per clerk. Despite several appeals to the county and state for additional staff, no permanent relief has been provided.

The lack of staff has undoubtedly inhibited our office's ability to comply with the AOPC audit deadlines for issuance of arrest warrants and DL-38 sanctions. I do not anticipate this problem being rectified in future audits unless the county assigns at least one (1) additional permanent staff member to my office.

Auditor's Conclusion

Although we recognize the district court's concerns about staffing, it is imperative that warrants and DL-38s are issued timely to enforce the collection of monies.

DISTRICT COURT 45-3-04
LACKAWANNA COUNTY
COMMENT
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2009

Comment - Compliance With Prior Examination Recommendation

During our prior examination, we recommended:

- That the office deposit all receipts at the end of each day as required by good internal accounting controls and the *Magisterial District Judge Automated Office Clerical Procedures Manual*.

During our current examination, we noted that the office complied with our recommendation.

DISTRICT COURT 45-3-04
LACKAWANNA COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2009

This report was initially distributed to:

The Honorable Daniel P. Meuser
Secretary
Pennsylvania Department of Revenue

The Honorable Zygmunt Pines
Court Administrator of Pennsylvania
Administrative Office of Pennsylvania Courts

The Honorable Laura M. Turlip	Magisterial District Judge
Mr. Ronald C. Mackay	District Court Administrator
The Honorable Kenneth McDowell	Controller
The Honorable Michael Washo	Chairman of the Board of Commissioners

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.