ATTESTATION ENGAGEMENT

District Court 45-1-01

Lackawanna County, Pennsylvania

For the Period

January 1, 2012 to December 31, 2013

January 2016

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 Eileen H. McNulty
Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We have examined the accompanying statement of receipts and disbursements (Statement) of District Court 45-1-01, Lackawanna County, Pennsylvania (District Court), for the period January 1, 2012 to December 31, 2013, 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 this Statement. 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 and, accordingly, included 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 January 1, 2012 to December 31, 2013, in conformity with the criteria set forth in Note 1.

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 certain deficiencies in internal control, described in the finding listed below, that we consider to be significant deficiencies.

- 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*.

We are concerned that the District Court failed to correct a previously reported finding regarding inadequate arrest warrants and DL-38 procedures. This significant deficiency could result in uncollected fines and unpunished offenders and increases the risk for funds to be lost or misappropriated. The District Court should strive to implement the recommendations and corrective actions noted in this report.

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.

We appreciate the courtesy extended by the District Court 45-1-01, Lackawanna 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.

November 4, 2015

Eugene A. DePasquale
Auditor General

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DISTRICT COURT 45-1-01
LACKAWANNA COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2013

Receipts:		
Department of Transportation		
Title 75 Fines	$	183,920
Motor Carrier Road Tax Fines		542
Overweight Fines		224
Littering Law Fines		300
Child Restraint Fines		375
Department of Revenue Court Costs		84,715
Crime Victims' Compensation Bureau Costs		6,954
Crime Commission Costs/Victim Witness Services Costs		4,992
Domestic Violence Costs		1,871
Department of Agriculture Fines		75
Emergency Medical Service Fines		27,525
CAT/MCARE Fund Surcharges		133,877
Judicial Computer System Fees		32,416
Access to Justice Fees		9,296
Criminal Justice Enhancement Account Fees		2,669
Judicial Computer Project Surcharges		12,157
Constable Service Surcharges		4,195
Miscellaneous State Fines and Costs		21,210
Total receipts (Note 2)		527,313
Disbursements to Commonwealth (Note 3)		(527,313)
Balance due Commonwealth (District Court) per settled reports (Note 4)		-
Examination adjustments		-
Adjusted balance due Commonwealth (District Court) for the period January 1, 2012 to December 31, 2013	$	-

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

DISTRICT COURT 45-1-01
LACKAWANNA COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2013

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	$ 527,313

4. Balance Due Commonwealth (District Court) For The Period January 1, 2012 To December 31, 2013

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

5. Magisterial District Judge Serving During Examination Period

Theodore J. Giglio served at District Court 45-1-01 for the period January 1, 2012 to December 31, 2013.

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

We cited the issue of inadequate arrest warrant and DL-38 procedures in the prior examination for the period January 1, 2009 to December 31, 2011. Our current examination found that the office once again 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 15 instances in which a warrant was required to be issued. Our testing disclosed that eight were not issued timely and two were not issued at all. The time of issuance ranged from 155 days to 501 days.

Furthermore, we tested 10 instances in which a DL-38 was required to be issued. Our testing disclosed that five were not issued timely and one was not issued at all. The time of issuance ranged from 91 days to 324 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.

Finding - 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.

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.

This condition existed because the office did not review the tickler reports for warrants and DL-38s daily and take appropriate action as required by the Manual as recommended in our prior examination report.

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

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.

Recommendation

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.

Management's Response

The Magisterial District Judge responded as follows:

> I agree with the audit finding, however it should be noted my office staff was reduced from three to two for one year of the audit period.

Auditor's Conclusion

We appreciate the Judge's staffing concerns. However, this is a recurring finding. It is imperative that the district court take all steps necessary to comply with our recommendation. During our next examination we will determine if the office complied with our recommendation.

DISTRICT COURT 45-1-01
LACKAWANNA COUNTY
SUMMARY OF PRIOR EXAMINATION RECOMMENDATION
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2013

Summary of Prior Examination Recommendation

During our prior examination we recommended:

- That the office review the tickler reports for warrants and DL-38s daily and take appropriate action as required by the Manual.

Our current examination found that the office did not comply with our recommendation. Please see the current year finding for additional information.

DISTRICT COURT 45-1-01
LACKAWANNA COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2012 TO DECEMBER 31, 2013

This report was initially distributed to:

The Honorable Eileen H. McNulty
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 Theodore J. Giglio	Magisterial District Judge
The Honorable Jim Wansacz	Chairman of the Board of Commissioners
The Honorable Gary Dibileo	Controller
Mr. Frank Castellano	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.