

# ATTESTATION ENGAGEMENT

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District Court 45-1-03  
Lackawanna County, Pennsylvania  
For the Period  
January 1, 2011 to December 31, 2013

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July 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 45-1-03, Lackawanna County, Pennsylvania (District Court), for the period January 1, 2011 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 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, 2011 to December 31, 2013, in conformity with the criteria set forth in Note 1.

## Independent Auditor's Report (Continued)

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.

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. However, as described below, we identified certain deficiencies in internal control that we consider to be material weaknesses.

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. We consider the deficiencies listed below to be material weaknesses:

- Deficiencies In Internal Controls Over Receipts.
- Inadequate Segregation Of Duties.

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 the following instance of noncompliance or other matters that are required to be reported under *Government Auditing Standards*:

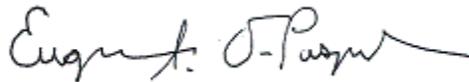
- Inadequate Arrest Warrant And DL-38 Procedures - Recurring.

Independent Auditor's Report (Continued)

We are concerned that the district court failed to correct a previously reported finding regarding inadequate arrest warrant and DL-38 procedures. During our current examination, we noted that there were inadequate internal controls over receipts, inadequate segregation of duties and inadequate arrest warrant and DL-38 procedures. These deficiencies could result in uncollected fines and unpunished offenders and increase 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 45-1-03, 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.



Eugene A. DePasquale  
Auditor General

June 2, 2016.

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DISTRICT COURT 45-1-03  
LACKAWANNA COUNTY  
STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2011 TO DECEMBER 31, 2013

Receipts:

Department of Transportation		
Title 75 Fines	\$	96,037
Motor Carrier Road Tax Fines		50
Overweight Fines		65
Littering Law Fines		278
Child Restraint Fines		1,875
Department of Revenue Court Costs		107,926
Crime Victims' Compensation Bureau Costs		10,138
Crime Commission Costs/Victim Witness Services Costs		7,281
Domestic Violence Costs		2,842
Emergency Medical Service Fines		26,715
CAT/MCARE Fund Surcharges		82,708
Judicial Computer System Fees		39,901
Access to Justice Fees		11,982
Criminal Justice Enhancement Account Fees		4,546
Judicial Computer Project Surcharges		20,722
Constable Service Surcharges		6,257
Miscellaneous State Fines and Costs		<u>6,362</u>
 Total receipts (Note 2)		 425,685
 Disbursements to Commonwealth (Note 3)		 <u>(425,685)</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, 2011 to December 31, 2013	 \$	 <u>-</u>

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

DISTRICT COURT 45-1-03  
LACKAWANNA COUNTY  
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2011 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	<u>\$ 425,685</u>
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4. Balance Due Commonwealth (District Court) For The Period January 1, 2011 To December 31, 2013

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

5. Magisterial District Judges Serving During Examination Period

Robert Russell served at District Court 45-1-03 for the period January 1, 2011 to December 31, 2011.

Joanne Price Corbett served at District Court 45-1-03 for the period January 1, 2012 to December 31, 2013.

DISTRICT COURT 45-1-03  
LACKAWANNA COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2011 TO DECEMBER 31, 2013

**Finding No. 1 - Deficiencies In Internal Controls Over Receipts**

Our examination disclosed that receipts were not always deposited on the same day as collected. Of 45 deposits tested, six were not deposited on the same day as collected. The time lapse from the date of receipt to the subsequent date of deposit ranged from two days to six days.

During the examination period, we also found that four of the 45 deposits had variances between the deposit amounts and the amount of funds recorded as collected on office records. As a result, we examined additional documentation from the bank for 20 different deposits made by the district court and found the following:

- There were two deposit amounts that were greater than the amount recorded in the office's records. We noted that in one of the deposits, there were two checks that were deposited that were not recorded on the office's records for that day. However, further examination of the office records revealed that the same two checks were recorded in the office's records three days later. For the second deposit, we noted that a check amount was recorded incorrectly.
- There were an additional two deposits that had a time lapse from the date of receipt to the subsequent date of deposit of two to three days. These same two deposits were for collections that were recorded on a Saturday and Sunday. Once again, one of the deposit amounts was greater than the amount recorded in the office's records by \$112. Further examination of the office records revealed that the bank returned a non-sufficient funds check totaling \$112 to the office two days later.
- There were four instances where the office made two deposits on the same day, at different times, which resulted in overages or shortages between the amounts recorded in the office's records and the amounts deposited into the bank. However, we did note that the total amount of collections recorded equaled the total amount of funds deposited.

This condition existed because the district court failed to establish and implement an adequate system of internal controls over receipts. The office experienced high staff turnover and the lack of staffing contributed to the untimely recording of funds collected. Also, this condition existed because there was a lack of segregation of duties. Please refer to Finding No 2 for further information.

DISTRICT COURT 45-1-03  
LACKAWANNA COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2011 TO DECEMBER 31, 2013

**Finding No. 1 - Deficiencies In Internal Controls Over Receipts (Continued)**

A good system of internal controls ensures that:

- All monies collected are deposited intact at the bank on the same day as collected.
- Receipts are recorded on the same day as collected and reconciled to the corresponding deposit. Any discrepancies should be immediately investigated and resolved.

Without a good system of internal controls over funds received by the office, the possibility of funds being lost or misappropriated increases significantly. We did not find any evidence of missing funds.

Recommendation

We recommend that the district court deposit all receipts at the end of each day. Further, we recommend that receipts be recorded on the same day as collected and reconciled to the corresponding deposit. The district court should immediately investigate any discrepancies.

Management's Response

The Magisterial District Judge responded as follows:

The above finding occurred in an office experiencing transition and staffing deficiencies. It is undisputed that there were times this very busy office operated with a single staff person handling all tasks. I believe many of the incidents noted here were the direct result of the problem. Additionally, due to the extreme workload encountered in 2012, there was a staff member who would voluntarily work after hours and on weekends. Despite the directive that all deposits be made daily at the end of the day, I believe the effort to bring the court up to date resulted in sporadic bank deposits at irregular hours. The large volume of work and the inexperience of the new staff member was often the source of accounting errors. I always attempted to address errors reported to me by staff and utilize the resources provided through the Administrative Office of Pennsylvania Courts (AOPC) system as time permitted. In 2013, the new staff member responsible for many of these errors was sent to Advanced Financial Training at the AOPC to enhance his ability to perform financial tasks.

Auditor's Conclusion

We appreciate the judge's efforts to correct this issue. During our next examination, we will determine if the office complied with our recommendation.

DISTRICT COURT 45-1-03  
LACKAWANNA COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2011 TO DECEMBER 31, 2013

**Finding No. 2 - Inadequate Segregation Of Duties**

Our examination disclosed that one employee in the district court was responsible for performing the following functions:

- Collecting cash, entering collection information into the computer system, and issuing receipts.
- Making voided transaction adjustments.
- Preparing deposit slips.
- Making the deposit.
- Reconciling collections to accounting records.
- Preparing checks.
- Reconciling the bank statement.

A good system of internal controls ensures adequate segregation of duties.

In order to achieve adequate segregation of duties, one employee should not have custody of cash and at the same time maintain the accounting records for the cash, make voided transaction adjustments, and follow up on citations. These duties should be segregated and rotated daily. As an alternative control, someone independent from maintaining the accounting records and handling cash should review the employee's work daily. The reviewer should sign and date the records and documents reviewed. These documents should also include the tickler reports generated by the computer system to investigate why certain citations have not been issued DL-38s or warrants.

Without adequate segregation of duties, the possibility of funds being lost or misappropriated increases significantly.

This condition existed because the district court did not establish and implement adequate segregation of duties.

DISTRICT COURT 45-1-03  
LACKAWANNA COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2011 TO DECEMBER 31, 2013

**Finding No. 2 - Inadequate Segregation Of Duties (Continued)**

Recommendation

We recommend that the district court provide for greater segregation of duties within the office. This can be done by cross-training personnel and rotating job functions that include the handling of cash, making voided transaction adjustments, monitoring follow-up procedures on citations, and maintaining the accounting records for the cash. As an alternative and/or additional control, someone independent from the handling of cash and the accounting records should review the employee's work at the end of each day. The reviewer should sign and date the records and documents reviewed.

Management's Response

The Magisterial District Judge responded as follows:

This finding is the direct result of the situation that existed in this court. Every effort was made to accomplish this ideal situation in 2012 when I entered this office. As noted earlier, due to contractually required time off, the office was rarely fully staffed by the three persons required to accomplish this segregation of duties. Currently, the two highly competent employees of this court have been duly diligent in accomplishing this goal. Unfortunately, the most senior staff member of this court is on a 30 day leave, resulting in the existence of the use of a floater (when available) to fully staff the court. This is a recurring issue within the Magisterial District Justice system given the continued attrition of senior staff and use of contractual provisions for leave time. Despite this every effort is made to segregate duties as allowed by the staffing provided at any given time in this court.

Auditor's Conclusion

We appreciate the judge's efforts to correct this issue. During our next examination, we will determine if the office complied with our recommendation.

DISTRICT COURT 45-1-03  
LACKAWANNA COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2011 TO DECEMBER 31, 2013

**Finding No. 3 - Inadequate Arrest Warrant And DL-38 Procedures - Recurring**

We cited the issue of inadequate arrest warrant and DL-38 procedures in the prior examination report for the period January 1, 2006 to December 31, 2010. Our current examination found that the district court did not correct this issue. The 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 25 instances in which a warrant was required to be issued. Our testing disclosed that 15 were not issued timely and six were not issued at all. The time of issuance ranged from 129 days to 673 days.

In addition, of the 19 warrants required to be returned or recalled, 13 were not returned or recalled and three were not returned timely. The time of issuance to the time of return ranged from 96 days to 607 days.

Furthermore, we tested 14 instances in which a DL-38 was required to be issued. Our testing disclosed that nine were not issued timely and one was not issued at all. The time of issuance ranged from 91 days to 343 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. 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 45-1-03  
LACKAWANNA COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2011 TO DECEMBER 31, 2013

**Finding No. 3 - Inadequate Arrest Warrant And DL-38 Procedures - Recurring (Continued)**

According to Pa.R.Crim.P. 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. §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. §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.

DISTRICT COURT 45-1-03  
LACKAWANNA COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2011 TO DECEMBER 31, 2013

**Finding No. 3 - Inadequate Arrest Warrant And DL-38 Procedures - Recurring (Continued)**

This condition existed because the district court had numerous staff turnovers and the lack of staffing led to untimely receipting of cases as discussed in Finding No. 1. 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 the police or other officials to return warrants that are unserved for 60 days for summary, traffic and non-traffic cases as recommended by the Manual.

Management's Response

The Magisterial District Judge responded as follows:

As a newly appointed Judge I attended training at Administrative Offices of Pennsylvania Courts (AOPC). At that time all judges were handed a copy of their outstanding warrant list. The sheer size of the packet I received at the beginning of 2012 indicated to me that this procedure was not being adequately followed in this court. Since that time every effort has been made to rectify the situation. Once again, the proper and regular issuance of summons, DLs and warrants is impacted by adequate and competent staffing. I believe this issue was addressed and rectified. In 2014, with new staff in place, I sought the assistance of AOPC administrator, and they offered a court evaluation and suggestions. These were implemented and a report is regularly run by this court.

Auditor's Conclusion

We appreciate the judge's efforts to correct this issue. This is a recurring finding. It is imperative that the district court take all steps necessary to comply with our recommendations. During our next examination, we will determine if the office complied with our recommendations.

DISTRICT COURT 45-1-03  
LACKAWANNA COUNTY  
SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2011 TO DECEMBER 31, 2013

Summary Of Prior Examination Recommendations

During our prior examination, we recommended that the district court:

- Secure the bank's validation on the court's copy of the deposit slip.
- Initiate procedures to ensure that all cases are properly filed and contain appropriate documents as outlined in the *Magisterial District Judge Automated Office Clerical Procedures Manual*.
- Review tickler reports for warrants daily and take appropriate action.

During our current examination, we noted that the office complied with our first 2 bulleted recommendations. However, the office did not comply with our 3rd bulleted recommendation. Please see the current year Finding No. 3 for additional information.

DISTRICT COURT 45-1-03  
LACKAWANNA COUNTY  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2011 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 Joanne P. Corbett**  
Magisterial District Judge

**The Honorable Patrick M. O'Malley**  
Chairman of the Board of Commissioners

**The Honorable Gary DiBileo**  
Controller

**Mr. Frank Castellano**  
District Court Administrator

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