

ATTESTATION ENGAGEMENT

District Court 06-2-04
Erie County, Pennsylvania
For the Period
January 1, 2014 to December 31, 2017

July 2019



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 C. Daniel Hassell
Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We have examined the accompanying statement of receipts and disbursements (Statement) of District Court 06-2-04, Erie County, Pennsylvania (District Court), for the period January 1, 2014 to December 31, 2017, 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 presenting this Statement in accordance with the criteria set forth in Note 1. 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. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Statement is presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the statement of receipts and disbursements. The nature, timing and extent of the procedures selected depend on our judgement, including an assessment of the risks of material misstatement of the Statement, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide 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, for the period January 1, 2014 to December 31, 2017, is presented in accordance with the criteria set forth in Note 1, in all material respects.

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. 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.

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:

- Improper Filing Of Criminal Complaints In Lieu Of Filing Proper Civil Complaints.

Independent Auditor's Report (Continued)

A copy of this examination report will be sent contemporaneously with the release of this report to the Erie County District Attorney's office for their review and any action they consider necessary.

The purpose of this report is to determine whether all moneys collected on behalf of the Commonwealth have been correctly assessed, reported and promptly remitted. This report is not suitable for any other purposes.

We appreciate the courtesy extended by the District Court 06-2-04, Erie 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

April 29, 2019

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DISTRICT COURT 06-2-04
 ERIE COUNTY
 STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2014 TO DECEMBER 31, 2017

Receipts:

Department of Transportation		
Title 75 Fines	\$	173,799
Overweight Fines		150
Commercial Driver Fines		500
Littering Law Fines		97
Child Restraint Fines		1,233
Department of Revenue Court Costs		87,163
Crime Victims' Compensation Bureau Costs		17,994
Crime Commission Costs/Victim Witness Services Costs		13,001
Domestic Violence Costs		4,373
Department of Agriculture Fines		1,010
Emergency Medical Service Fines		34,654
CAT/MCARE Fund Surcharges		87,787
Judicial Computer System Fees		41,777
Access to Justice Fees		13,875
Criminal Justice Enhancement Account Fees		3,977
Judicial Computer Project Surcharges		34,804
Constable Service Surcharges		5,946
Miscellaneous State Fines and Costs		103,044
		<hr/>
Total receipts (Note 2)		625,184
Disbursements to Commonwealth (Note 3)		<hr/> <u>(625,184)</u>
Balance due Commonwealth (District Court) per settled reports (Note 4)		-
Examination adjustments		<hr/> -
Adjusted balance due Commonwealth (District Court) for the period January 1, 2014 to December 31, 2017	\$	<hr/> <u>-</u>

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

DISTRICT COURT 06-2-04
ERIE COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

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>\$ 625,184</u>
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4. Balance Due Commonwealth (District Court) For The Period January 1, 2014 To December 31, 2017

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

5. Magisterial District Judge Serving During Examination Period

Brenda William-Nichols served at District Court 06-2-04 for the period January 1, 2014 to December 31, 2017.

DISTRICT COURT 06-2-04
ERIE COUNTY
FINDING AND RECOMMENDATION
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

Finding - Improper Filing Of Criminal Complaints In Lieu Of Filing Proper Civil Complaints

During our examination of District Court 06-2-04, we found that the prior magisterial district judge (MDJ) filed civil complaints under Title 18 Pa. C.S. § 3926, Theft of Services. We also found that the majority of these filings were processed without the proper assessment and collection of the applicable state and county costs and fees.

During our initial testing of 40 case files, we found six cases in which the prior MDJ filed theft of services charges pursuant to § 3926. Further review of these cases filed in this court during the period January 1, 2014 to December 31, 2017, disclosed a total of 880 cases in which the prior MDJ filed criminal charges under § 3926. Our testing of 82 of the 880 cases found that in each case, the defendant was incorrectly charged with this summary criminal offense for an action that should have been filed as a civil complaint. Additionally, our testing disclosed the office did not consistently assess the applicable costs and fees on these cases as mandated by law. Our testing found that in 69 of the 82 cases tested, no court costs or other Commonwealth costs or fees were assessed and collected.

The following state statutes address the assessment of costs and fees that were not properly assessed:

- Title 42 Pa. C.S.A. § 1725.1 provides for the collection of Department of Revenue Court Costs in varying amounts depending on the amount of the complaint. The Commonwealth portion of these costs ranged from \$20.80 to \$83.35 in 2014 and increased to \$21.50 to \$86.00 in 2017.
- Title 42 Pa. C.S.A. § 3733 provides for the collection of Judicial Computer System/Access to Justice (JCS/ATJ) Fees. These represent a \$23.50 fee imposed for the filing of any legal paper to initiate a civil action or proceeding. Effective July 10, 2014, Act 126 increased the fee to \$33.50. Effective August 8, 2014, Act 113 increased the fee to \$35.50. Effective October 30, 2017, Acts 40 and 44 increased the fee to \$40.25.

The incorrect filing of these charges under the criminal statute and the failure to assess these costs and fees under the correct civil action filings resulted in a loss of revenue to the Commonwealth. The civil complaint costs that should have been collected on the 880 cases range from \$20.80 to \$86.00 per case and JCS/ATJ fees ranged from \$23.50 to \$40.25 per case during the examination period. For the 69 cases tested, the approximate amount of revenue lost to the Commonwealth ranged from \$3,056.70 to \$8,383.50. In addition, the incorrect filing of these charges under the criminal statute has resulted in numerous individuals that now improperly have criminal records.

DISTRICT COURT 06-2-04
ERIE COUNTY
FINDING AND RECOMMENDATION
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

Finding - Improper Filing Of Criminal Complaints In Lieu Of Filing Proper Civil Complaints (Continued)

The newly elected MDJ stated that this improper usage of private criminal complaint forms in civil case actions was a common practice of the previous MDJ. The newly elected MDJ also indicated that the prior MDJ utilized pre-printed complaint forms with the Theft of Services charge already printed on the form. Because the prior MDJ and the court's senior clerk left office in 2018, we were unable to obtain the reason behind these inaccurate filings. It appears, however, that this practice was instituted as a means to reduce the financial burden on the complainant at the time of filing by eliminating the necessity of collecting advance costs on civil actions. In addition, this practice provided assistance in immediate financial recovery for plaintiffs as the court acted as a collection agency for the filer receiving restitution while rarely charging any costs or fees on these cases.

Recommendation

We strongly recommend that the district court follow the applicable laws and regulations and file non-traffic and civil case actions under the correct statute to ensure that all applicable court fines, costs, and fees are assessed as mandated by law. We further recommend that the district court review all improperly filed cases and have the records expunged.

Management's Response

Court Administration responded as follows:

The Magisterial District Judge ("MDJ") took office on January 1, 2018. The practice of improperly filing civil complaints occurred prior to her tenure. This was discovered by the MDJ in the Fall of 2018, who in turn reported this practice to Court Administration. Court Administration informed the Administrative Office of Pennsylvania Courts in November 2018. The MDJ additionally alerted the state auditor during the routine audit for the period January 1, 2014 to December 31, 2017. Prior to the Fall of 2018, neither the MDJ nor Court Administration was aware that this practice was occurring. The last audit, for the period January 1, 2011 to December 31, 2013, did not result in any findings of this nature.

The MDJ is following all applicable laws, regulations and procedures with respect to the filing of non-traffic and civil case actions in order to ensure that all applicable court fines, costs and fees are assessed as mandated by law. The MDJ and Court Administration consider this issue resolved going forward and do not anticipate any future finding in this regard.

DISTRICT COURT 06-2-04
ERIE COUNTY
FINDING AND RECOMMENDATION
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

**Finding - Improper Filing Of Criminal Complaints In Lieu Of Filing Proper
Civil Complaints (Continued)**

Auditor's Conclusion

We appreciate the corrective action taken to resolve this deficiency. During our next examination, we will determine if the district court complied with our recommendation.

DISTRICT COURT 06-2-04
ERIE COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2014 TO DECEMBER 31, 2017

This report was initially distributed to:

The Honorable C. Daniel Hassell
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 John Fetterman
Lieutenant Governor

The Honorable Denise M. Buell
Magisterial District Judge

The Honorable John J. Trucilla
President Judge
Court of Common Pleas

The Honorable Fiore Leone
Chairperson of the Board of Commissioners

Ms. Kathy Dahlkemper
County Executive

The Honorable Mary E. Schaaf
Controller

Robert J. Catalde, Esquire
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.