

DISTRICT COURT 20-3-01

HUNTINGDON COUNTY

EXAMINATION REPORT

FOR THE PERIOD

JANUARY 1, 2003 TO DECEMBER 31, 2007

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Independent Auditor's Report

The Honorable Stephen H. Stetler
Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We have examined the accompanying statement of receipts and disbursements (Statement) of District Court 20-3-01, Huntingdon County, Pennsylvania (District Court), for the period January 1, 2003 to December 31, 2007, 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, 2007, 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 deficiencies described in the findings below to be significant deficiencies in internal control over the reporting on the Statement:

- Significant Deficiencies Over Constable Procedures.
- Improper Use Of Community Service And Jail Credit Adjustments.
- Unsecured Facsimile Signature Stamp.
- Inadequate Arrest Warrant And DL-38 Procedures.

Independent Auditor's Report (Continued)

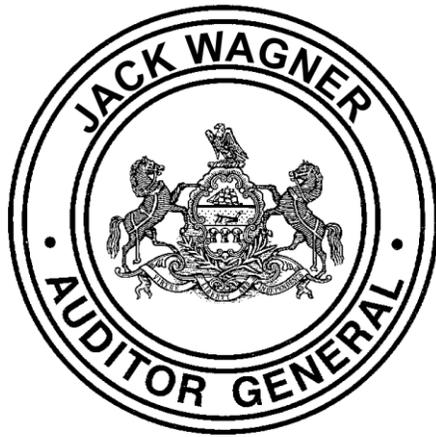
A material weakness is a significant deficiency or combination of significant deficiencies that results in more than a remote likelihood that a material misstatement of the Statement will not be prevented or detected by the District Court's internal control. Our consideration of the internal control 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, of the significant deficiencies described above, we consider the first three bulleted deficiencies to be material weaknesses.

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.

December 3, 2008

JACK WAGNER
Auditor General



DISTRICT COURT 20-3-01
HUNTINGDON COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2003 TO DECEMBER 31, 2007

Receipts:

| | | |
|---|--------|----------------------|
| Department of Transportation | | |
| Title 75 Fines | \$ | 276,586 |
| Motor Carrier Road Tax Fines | | 850 |
| Overweight Fines | | 5,150 |
| Commercial Driver Fines | | 938 |
| Littering Law Fines | | 76 |
| Child Restraint Fines | | 270 |
| Department of Revenue Court Costs | | 108,898 |
| Crime Victims' Compensation Bureau Costs | | 15,687 |
| Crime Commission Costs/Victim Witness Services Costs | | 11,279 |
| Domestic Violence Costs | | 4,114 |
| Department of Conservation and Natural Resources Fines | | 121 |
| Department of Agriculture Fines | | 2,063 |
| Fish and Boat Commission Fines | | 9,380 |
| Game Commission Fines | | 11,130 |
| Emergency Medical Service Fines | | 59,525 |
| CAT/MCARE Fund Surcharges | | 187,876 |
| Judicial Computer System Fees | | 61,919 |
| Access to Justice Fees | | 12,394 |
| Constable Service Surcharges | | 2,570 |
| Department of Labor and Industry Fines | | 150 |
| Miscellaneous State Fines | | <u>1,250</u> |
| Total receipts (Note 2) | \$ | 772,226 |
| Disbursements to Commonwealth (Note 3) | | <u>(772,226)</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, 2003 to December 31, 2007 | \$ | <u><u>-</u></u> |

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

DISTRICT COURT 20-3-01
HUNTINGDON COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2003 TO DECEMBER 31, 2007

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 | \$ 772,226 |
|-----------------------|------------|

4. Balance Due Commonwealth (District Court) For The Period January 1, 2003 To December 31, 2007

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

5. Magisterial District Judge Serving During Examination Period

Daniel S. Davis served at District Court 20-3-01 for the period January 1, 2003 to the date he resigned on August 31, 2007.

The district court was closed from September 1, 2007 to December 31, 2007.

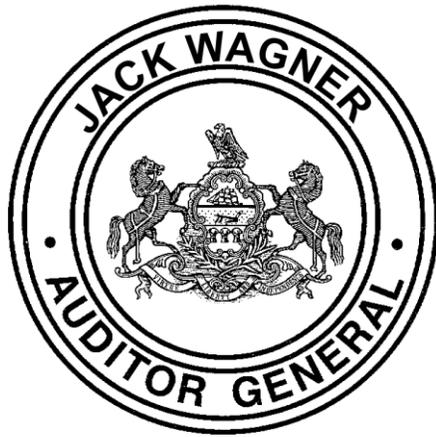
DISTRICT COURT 20-3-01
HUNTINGDON COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2003 TO DECEMBER 31, 2007

6. Significant Event

On December 20, 2007, the Pennsylvania Court of Judicial Discipline ruled that former Magisterial District Judge Daniel S. Davis violated Rules 4A and 5A of the Rules Governing Standards of Conduct of Magisterial District Judges by:

1. Failing to hold hearings as required by law in order to determine defendants' financial ability to pay fines and costs;
2. Imposing illegal sentences; and,
3. Failing to properly supervise his constable so as to assure that he conducted the business of the court in compliance with the law and not in violation of it constituted.

The Court concluded that former Magisterial District Judge Davis is subject to discipline under Article V, § 18(d)(1) of the Pennsylvania Constitution.



DISTRICT COURT 20-3-01
HUNTINGDON COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2003 TO DECEMBER 31, 2007

Finding No. 1 – Significant Deficiencies Over Constable Procedures

Our testing disclosed that a constable was performing inappropriate collection activities. Consequently, we notified the Department of the Auditor General's Office of Special Investigations (OSI).

OSI performed extensive testing and interviews and revealed the following:

- The constable established a payment plan for defendants rather than the constable bringing the defendant into the District Court.
- The constable had uncontrolled access to files in the district court office.
- The constable, at times, failed to give receipts to defendants for payment.
- The constable remitted at least \$11,877 of money collected from defendants from his personal bank account.
- The constable requested defendants to pay him in cash or with a money order payable to his business account or to himself.
- The constable deducted his service fees from the defendants' payments prior to remitting those payments to the district court. Because the district court could not track these fees, the district court underreported the income earned by the constable to the United States Treasury, Internal Revenue Service.

OSI's investigation led to criminal charges being filed against a constable. The constable admitted to withholding collections totaling \$1,500. Subsequently, a plea bargain arrangement was made whereby the constable would pay restitution totaling \$3,000. Once the restitution was paid, the charges were dismissed pursuant to Rule 546 of the Pennsylvania Rules of Criminal Procedure.

The Magisterial District Judge was aware of the inappropriate collection procedures performed by the constable.

Good internal accounting controls, Rules of Criminal Procedure, and the *Magisterial District Judge Automated Office Clerical Procedures Manual* (Manual), which establishes the uniform written internal control policies and procedures for all district courts, require that the court maintain complete accountability over all citations and subsequent collections. The court should not delegate these functions to constables or any other independent contractor or third party.

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JANUARY 1, 2003 TO DECEMBER 31, 2007

Finding No. 1 - Significant Deficiencies Over Constable Procedures (Continued)

Official receipts should be issued by the constables upon the collection of fines and costs and copies of these receipts, signed by the defendant, should accompany payments turned over to the court. All checks and money orders collected by the constables should be in the name of the issuing authority and should be remitted to the court immediately upon collection. Additionally, payment plans can only be authorized and established by the Magisterial District Judge. Lastly, only authorized personnel should have access to case files in the district court office.

Magisterial District Judges have the power to choose the independent contractors who will perform services on behalf of the court. They also have the authority to dictate minimum standards of satisfactory performance, so long as said standards are not inconsistent with pertinent statutes and Rules of Court. Such standards should include the requirement that constables or other third parties who collect money on behalf of district courts prepare and maintain the documentation which is necessary to maintain effective internal controls as well as to establish an adequate examination trail with respect to said funds.

Without these controls, money collected from defendants could become lost, stolen, or misappropriated.

Adherence to good internal accounting controls, Rules of Criminal Procedure, and the uniform internal control policies and procedures, as set forth in the Manual, would have ensured that there were adequate internal controls over third party collections.

Recommendation

We recommend that the district court establish and implement an adequate system of internal controls over constable collections as noted above.

Management's Response

The District Court Administrator responded as follows:

The finding has been corrected.

Auditor's Conclusion

During our next examination we will determine if the office complied with our recommendation.

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HUNTINGDON COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2003 TO DECEMBER 31, 2007

Finding No. 2 - Improper Use Of Community Service And Jail Credit Adjustments

The Department of the Auditor General's Office of Special Investigations' (OSI) testing of cases involving community service credits and jail credits disclosed that in some cases the Magisterial District Judge would use these credits to reduce or eliminate fines and costs on a case without the defendant performing community service or serving jail time. In five cases tested for community service credits, none of them had documentation as to any community service being performed. In 21 jail commitments tested, the Huntingdon County Prison had no record of the defendant serving any time.

The *Magisterial District Judge Automated Office Clerical Procedures Manual* (Manual) establishes the uniform written internal control policies and procedures for all district courts. The Manual states that community service compensation may be imposed by the Magisterial District Judge. However, the defendant must perform the community service. In addition, the jail time adjustment is used to record jail time served (1) in lieu of payments of fines and costs in traffic cases pursuant to 75 Pa.C.S.A. § 6504 and (2) as an alternative sentence in non-traffic summary cases pursuant to 42 Pa.C.S.A. § 9758(c). However, before the jail time adjustment for non-traffic summary cases pursuant to 42 Pa.C.S.A. § 9758(c) can be performed, a Pa.R.Crim.P. Rule 456 payment determination hearing must be held to determine whether the defendant has the financial ability to pay fines and costs. In addition, a jail commitment must also be recorded before using the jail time adjustment code.

The Magisterial District Judge circumvented the system set up by the Administrative Office of Pennsylvania Courts (AOPC) when he used the community service adjustment to close out cases in which the defendants did not perform community service and when he executed a jail credit adjustment in cases in which the defendants did not serve time in prison. Using community service adjustments and jail credit adjustments in this manner not only violated AOPC policy and procedures, it can also be a method to conceal a misappropriation of funds paid on a case.

Recommendation

We recommend that the district court use the community service adjustment and the jail credit adjustment in lieu of fines and costs only when the defendants perform community service and are actually committed to prison and serve jail time.

DISTRICT COURT 20-3-01
HUNTINGDON COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2003 TO DECEMBER 31, 2007

Finding No. 2 - Improper Use Of Community Service And Jail Credit Adjustments (Continued)

Management's Response

The District Court Administrator responded as follows:

The finding has been corrected.

Auditor's Conclusion

During our next examination we will determine if the office complied with our recommendation.

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HUNTINGDON COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
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Finding No. 3 - Unsecured Facsimile Signature Stamp

Our examination of the district court disclosed that a facsimile signature stamp was kept in an unlocked desk drawer at the front desk.

Good internal controls ensure that effective measures be implemented to protect against inappropriate use of the Magisterial District Judge's signature. Only the Magisterial District Judge should have access to the facsimile signature stamp and the stamp should be stored in a secured location.

This condition existed because the district court failed to establish and implement an adequate system of internal controls over the facsimile signature stamp.

Without a good system of internal control over the facsimile signature stamp by the office, the potential is increased that documents could be fraudulently authorized and that funds could be misappropriated.

Recommendation

We recommend that the district court implement good internal controls over the access to the facsimile signature stamp by restricting the availability of the facsimile signature stamp to the Magisterial District Judge only.

Management's Response

The District Court Administrator responded as follows:

The finding has been corrected.

Auditor's Conclusion

During our next examination we will determine if the office complied with our recommendation.

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HUNTINGDON COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2003 TO DECEMBER 31, 2007

Finding No. 4 - 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 sampled 41 instances in which a warrant was required to be issued. Our testing disclosed that six were not issued timely and eight were not issued at all. The time of issuance ranged from 98 days to 408 days.

As disclosed in Finding No. 1 in this report, our Office of Special Investigations (OSI) performed extensive testing and interviews and found that one constable had over 100 outstanding warrants, with the oldest one dated in 1997.

Furthermore, we sampled 17 instances in which a DL-38 was required to be issued. Our testing disclosed that three were not issued at all.

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.

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Finding No. 4 - Inadequate Arrest Warrant And DL-38 Procedures (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.

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.

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

DISTRICT COURT 20-3-01
HUNTINGDON COUNTY
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Finding No. 4 - Inadequate Arrest Warrant And DL-38 Procedures (Continued)

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 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.

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 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 District Court Administrator responded as follows:

The finding has been corrected.

Auditor's Conclusion

During our next examination we will determine if the office complied with our recommendations.

DISTRICT COURT 20-3-01
HUNTINGDON COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2003 TO DECEMBER 31, 2007

This report was initially distributed to:

The Honorable Stephen H. Stetler
Secretary
Pennsylvania Department of Revenue

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

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| | |
|--------------------------------|--|
| The Honorable Douglas L. Gummo | Magisterial District Judge |
| Ms. Deborah J. Higgins | District Court Administrator |
| The Honorable R. Dean Fluke | Chairman of the Board of Commissioners |

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