DISTRICT COURT 23-2-02

BERKS COUNTY

EXAMINATION REPORT

FOR THE PERIOD

JANUARY 1, 2004 TO DECEMBER 31, 2006

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Independent Auditor's Report

The Honorable Thomas W. Wolf
Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We have examined the accompanying statement of receipts and disbursements (Statement) of District Court 23-2-02, Berks County, Pennsylvania (District Court), for the period January 1, 2004 to December 31, 2006, 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*.

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 Pennsylvania Department of Revenue and other state agencies for the period ended December 31, 2006, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report findings of 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 the Statement or on compliance and other matters; accordingly, we express no such opinions. Our examination disclosed certain findings that are required to be reported under *Government Auditing Standards* and those findings, along with the views of management, are described in the Findings and Recommendations section of the report.

We are concerned in light of the District Court's failure to correct previously reported findings regarding inadequate internal control over receipts, inadequate arrest warrant procedures, and late payments to the Department of Revenue. The failure to implement an adequate system of internal controls over receipts and arrest warrants increases the risk for funds to be lost, stolen, or misappropriated and in uncollected fines and unpunished offenders. Further, the failure to remit Commonwealth funds as required by law has resulted in the Department of Revenue not receiving its funds due on a timely basis. The District Court should strive to implement the recommendations and take corrective actions as noted in this examination.

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.

May 21, 2008

JACK WAGNER
Auditor General

DISTRICT COURT 23-2-02
BERKS COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2004 TO DECEMBER 31, 2006

Receipts:			
Department of Transportation			
Title 75 Fines	$ 192,854		
Overweight Fines	975		
Commercial Driver Fines	500		
Littering Law Fines	921		
Child Restraint Fines	1,632		
Department of Revenue Court Costs	170,684		
Crime Victims' Compensation Bureau Costs	36,980		
Crime Commission Costs/Victim Witness Services Costs	27,303		
Department of Public Welfare			
Domestic Violence Costs	11,162		
Attend Care Fines	2,678		
Department of Agriculture Fines	515		
Emergency Medical Service Fines	60,910		
CAT/MCARE Fund Surcharges	189,520		
Judicial Computer System Fees	88,855		
Access to Justice Fees	18,282		
Constable Service Surcharges	16,691		
Total receipts (Note 2)		$	820,462
Disbursements to Department of Revenue (Note 3)			(820,462)
Balance due Department of Revenue (District Court) per settled reports (Note 4)			-
Examination adjustments			-
Adjusted balance due Department of Revenue (District Court) for th eperiod January 1, 2004 to December 31, 2006		$	-

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

DISTRICT COURT 23-2-02
BERKS COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2004 TO DECEMBER 31, 2006

1. Criteria

The Statement of Receipts and Disbursements (Statement) has been prepared in accordance with Section 401(c) of *The Fiscal Code*, 72 P.S § 401(c), which requires the Department of the Auditor General to determine whether all money collected on behalf of the Commonwealth has been remitted promptly and to provide the Pennsylvania Department of Revenue (Department of Revenue) with a report to enable them to settle an account covering any delinquency.

The Statement was prepared in accordance with reporting requirements prescribed by the 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 Department of Revenue and other state agencies. 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:

Checks issued to the Department of Revenue	$ 820,462

4. Balance Due Department Of Revenue (District Court) For The Period January 1, 2004 To December 31, 2006

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

5. Magisterial District Judge Serving During Examination Period

Timothy M. Dougherty served at District Court 23-2-02 for the period January 1, 2004 to December 31, 2006.

Finding No. 1 - Receipts Were Not Always Deposited On The Same Day As Collected

Our examination disclosed that receipts were not always deposited on the same day as collected. Of 45 receipts tested, 32 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 2 days to 19 days.

Good internal accounting controls require that all monies collected be deposited in the bank at the end of every day. 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 requires that:

> All money, including partial payments received by the Magisterial District Judge office (e.g. cash, checks, and money orders), must be deposited in the bank at the end of every business day. A bank night depository may be used by all (night) courts as well as by any court that cannot get to the bank during banking hours. Money should not be taken home, left in the office overnight, or unattended. The Daily Cash Balancing procedure must be completed every day.

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

Without a good system of internal control over funds received by the office, the potential is increased that funds could be lost, stolen, 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 collections.

This finding was cited in the prior audit for the period ending December 31, 2003.

Recommendation

We again recommend that the district court deposit all receipts at the end of each day as required by good internal accounting controls and the Manual.

Management's Response

The Magisterial District Judge responded as follows:

> Receipts are deposited by this judge only, unless on vacation, and if not available, they are secured for the night. Every effort is being made to avoid this including having the staff make the deposit.

Finding No. 1 - Receipts Were Not Always Deposited On The Same Day As Collected (Continued)

Auditor's Conclusion

We strongly recommend that the district court take all corrective actions necessary to comply with our recommendation. The failure to implement the recommended procedure increases the potential for funds to be lost, stolen, or misappropriated.

Finding No. 2 - 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 35 instances in which a warrant was required to be issued. Our testing disclosed that 17 were not issued timely and 6 were not issued at all. The time of issuance ranged from 61 days to 957 days.

In addition, of 29 warrants required to be returned or recalled, 10 were not returned or recalled, and 4 were not returned timely. The time of issuance to the time of return ranged from 389 days to 897 days.

Furthermore, we sampled 17 instances in which a DL-38 was required to be issued. Our testing disclosed that ten were not issued timely and two were not issued at all. The time of issuance ranged from 62 days to 955 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 No. 2 - 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 Department of Transportation by issuing the appropriate License Suspension Request (AOPC 638B,D,E).

Finding No. 2 - Inadequate Arrest Warrant And DL-38 Procedures (Continued)

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 when required could result in uncollected fines and unpunished offenders.

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.

This finding was cited in the prior audit for the period ending December 31, 2003.

Recommendations

We again 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 again 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 Magisterial District Judge responded as follows:

> While we make every effort to stay current on these lists the day-to-day operations of the court are our first priority. Also there is a substantial number of "frequent fliers" on these lists and to incur any additional costs to them would be counter productive.

Auditor's Conclusion

Although we recognize the district court's day to day operations are very important, it is imperative that warrants and DL-38s are issued timely, and warrants are returned timely to enforce the collection of monies.

Finding No. 3 - Late Payments To The Department Of Revenue

Our examination disclosed that the final payment of the month, for the Commonwealth's portion of fines, costs, fees, and surcharges collected, was transmitted late for 23 of the 36 months examined. The following schedule identifies the late payments:

Month/Year	Amount	Due Date	Date Check Issued
March 2004	$ 3,670.82	04/05/04	04/08/04
April 2004	3,966.03	05/05/04	05/10/04
May 2004	4,095.20	06/07/04	06/08/04
June 2004	2,576.47	07/05/04	07/09/04
July 2004	5,735.25	08/05/04	08/11/04
August 2004	1,610.59	09/06/04	10/07/04
September 2004	4,517.25	10/05/04	10/22/04
November 2004	3,046.84	12/06/04	12/07/04
December 2004	4,224.09	01/05/05	01/06/05
January 2005	1,669.78	02/07/05	02/08/05
February 2005	1,955.18	03/07/05	03/08/05
March 2005	6,201.36	04/05/05	04/18/05
May 2005	8,135.05	06/06/05	06/07/05
August 2005	3,365.18	09/05/05	09/06/05
October 2005	496.35	11/07/05	11/10/05
November 2005	4,614.35	12/05/05	12/15/05

Finding No. 3 - Late Payments To The Department Of Revenue (Continued)

Month/Year	Amount	Due Date	Date Check Issued
January 2006	$ 2,856.96	02/06/06	02/16/06
March 2006	8,037.72	04/05/06	04/11/06
May 2006	2,690.69	06/05/06	06/07/06
June 2006	4,919.57	07/05/06	07/06/06
August 2006	6,317.01	09/05/06	09/11/06
October 2006	1,885.98	11/06/06	11/22/06
November 2006	3,686.48	12/05/06	12/11/06

The above-noted conditions resulted in the Department of Revenue not receiving Commonwealth monies in a timely manner.

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 requires that the district court generate the "No" run and "Yes" run reports on a weekly basis. The "Yes" run creates a check to the Department of Revenue consisting of the week's collections. Additionally, Section 901 of *The Fiscal Code* requires that all collections be remitted by the fifth of the following month.

Adherence to Section 901 of *The Fiscal Code* and the uniform internal control policies and procedures, as set forth in the Manual, would have ensured that there were adequate internal controls over payments to the Department of Revenue.

This finding was cited in the prior audit for the period ending December 31, 2003.

Recommendation

We again recommend that the district court transmit the Commonwealth's portion of fines and costs as required by the Manual and Section 901 of *The Fiscal Code*.

Finding No. 3 - Late Payments To The Department Of Revenue (Continued)

Management's Response

The Magisterial District Judge responded as follows:

> The checks are signed and mailed as soon as possible after I receive them.

Auditor's Conclusion

It is imperative that the district court make every effort to remit their end of the month weekly checks by the fifth of the following month so that the Department of Revenue receives Commonwealth monies in a timely manner.

DISTRICT COURT 23-2-02
BERKS COUNTY
REPORT DISTRIBUTION
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This report was initially distributed to:

The Honorable Thomas W. Wolf
Secretary
Pennsylvania Department of Revenue

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

District Court 23-2-02
Berks County
401 Walnut Street
West Reading, PA 19611

The Honorable Timothy M. Dougherty	Magisterial District Judge
The Honorable Judith L. Schwank	Chairwoman of the Board of Commissioners
The Honorable Sandy Graffius	Controller
Mr. Stephen A. Weber	District Court Administrator

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