

DISTRICT COURT 31-2-03

LEHIGH COUNTY

EXAMINATION REPORT

FOR THE PERIOD

JANUARY 1, 2004 TO DECEMBER 31, 2007

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Independent Auditor's Report

Mr. Stephen H. Stetler
Acting Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We have examined the accompanying statement of receipts and disbursements (Statement) of District Court 31-2-03, Lehigh County, Pennsylvania (District Court), for the period January 1, 2004 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 deficiency described in the finding below to be a significant deficiency in internal control over the reporting on the Statement:

- Failure To Follow The *Supreme Court Of Pennsylvania Administrative Office Of Pennsylvania Courts Record Retention & Disposition Schedule With Guidelines* Procedures.

Independent Auditor's Report (Continued)

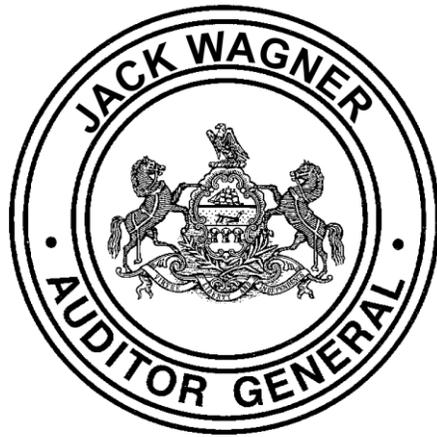
A material weakness is a significant deficiency or combination of significant deficiencies that results in more than a remote likelihood that a material misstatement of the Statement will not be prevented or detected by the District Court's internal control. Our consideration of the internal control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

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.

January 6, 2009

JACK WAGNER
Auditor General



DISTRICT COURT 31-2-03
 LEHIGH COUNTY
 STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2004 TO DECEMBER 31, 2007

Receipts:

Department of Transportation		
Title 75 Fines	\$ 349,441	
Motor Carrier Road Tax Fines	575	
Overweight Fines	4,660	
Commercial Driver Fines	7,715	
Littering Law Fines	450	
Child Restraint Fines	45	
Department of Revenue Court Costs	160,575	
Crime Victims' Compensation Bureau Costs	17,174	
Crime Commission Costs/Victim Witness Services Costs	12,380	
Department of Public Welfare		
Domestic Violence Costs	4,108	
Attend Care Fines	238	
Department of Agriculture Fines	825	
Fish and Boat Commission Fines	83	
Game Commission Fines	2,025	
Emergency Medical Service Fines	56,973	
CAT/MCARE Fund Surcharges	176,332	
Judicial Computer System Fees	73,746	
Access to Justice Fees	16,502	
Constable Service Surcharges	12,066	
Department of Labor and Industry Fines	3,320	
Miscellaneous State Fines	230	
	<hr/>	
Total receipts (Note 2)		\$ 899,463
Disbursements to Commonwealth (Note 3)		<hr/> <u>(899,463)</u>
Balance due Commonwealth (District Court) per settled reports (Note 4)		-
Examination adjustments		<hr/> <u>-</u>
Adjusted balance due Commonwealth (District Court) for the period January 1, 2004 to December 31, 2007		<hr/> <u><u>\$ -</u></u>

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

DISTRICT COURT 31-2-03
LEHIGH COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2004 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	<u>\$ 899,463</u>
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4. Balance Due Commonwealth (District Court) For The Period January 1, 2004 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

Donna R. Butler served at District Court 31-2-03 for the period January 1, 2004 to December 31, 2007.

DISTRICT COURT 31-2-03
LEHIGH COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2004 TO DECEMBER 31, 2007

Finding - Failure To Follow The *Supreme Court Of Pennsylvania Administrative Office Of Pennsylvania Courts Record Retention & Disposition Schedule With Guidelines Procedures*

Our examination disclosed that all of the traffic/non-traffic citations issued and closed between January 1, 2004 and December 31, 2004 were not available for examination and had been destroyed in January 2008 by the district court without being in compliance with the procedures described in the *Supreme Court of Pennsylvania Administrative Office of Pennsylvania Courts Record Retention & Disposition Schedule with Guidelines* (Schedule).

The Schedule outlines the proper procedures for the destruction of non-permanent court records. Disposal request procedures include:

A request to destroy non-permanent scheduled records must be submitted by the record custodian requesting permission to dispose of the record(s) to the Record Retention Officer utilizing a Unified Judicial System Disposal Log for Non-Permanent Records form adopted by the AOPC as provided in Pa.R.J.A. No. 507. The Record Retention Officer shall review the Records Disposal Log Form for completeness and shall grant written permission to dispose of such non-permanent records upon ascertaining that the applicable retention period as set forth in the schedule has been met. Written approval from the AOPC is not necessary before destroying non-permanent records as identified in the schedule. A log of individual disposition actions involving non-permanent records must be maintained. Copies of the Records Disposal Log Form shall be submitted on an annual basis to the AOPC. (See §4.5 Form Retention)

Although the Schedule identifies traffic and non-traffic citations as records that may be destroyed after three (3) years, the Schedule also states in part:

Records subject to audit must be retained for the periods listed in the schedule and must be audited and all findings resolved before such records may be destroyed.

The failure to maintain these records resulted in an unclear examination trail. Additionally, collections associated with missing cases files and documents could be lost, stolen, or misappropriated.

DISTRICT COURT 31-2-03
LEHIGH COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2004 TO DECEMBER 31, 2007

Finding - Failure To Follow The *Supreme Court Of Pennsylvania Administrative Office Of Pennsylvania Courts Record Retention & Disposition Schedule With Guidelines Procedures (Continued)*

Recommendations

We recommend that the district court comply with the procedures listed in the Schedule.

We further recommend that the district court not destroy citations until after they have been subject to examination by the Department of the Auditor General.

Management's Response

The Magisterial District Judge Administrator responded as follows:

First, I would note that this was an error on the part of both the District Court and me. The County has a three (3) step review process prior to the destruction of Court records and in this case the request eluded the attention of all three reviewers. On a positive note, the records were able to be obtained through the local police department and no irregularities were noted which could have cast a shadow on the premature destruction of these files. Closer attention will be made to these submissions in the future.

Now, not as means of an excuse to the action that occurred but rather as an observation, I want to note that the requirement to maintain these files through the time of audit is becoming more cumbersome. In prior years, State audits occurred approximately every two years. This now is extending to three and sometimes four years. The audit period for this District Court began in January 2004 with an exit interview in 2009. The need to store office records, even in the County Archives, is not without its issues including decreasing space availability and the transportation of these records to and from the District Court offices. In this specific case, the District Court generally maintains its records on site but as the time between audits lengthens the cost per square foot for records storage is increasingly significant. It also appears that we are not alone on this matter. It was relayed to us on the same day as the exit interview for this District Court the same problem of records being prematurely destroyed occurred in a District Court in another County. I do not know the reason why this other County destroyed their records, however, errors are going to be a more significant factor as the records are required to be held for longer periods of time. The potential for damage or destruction of the files due to human error, fire/water damage, misplaced files during office relocations, etc. increases with the increased time between audits.

DISTRICT COURT 31-2-03
LEHIGH COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2004 TO DECEMBER 31, 2007

Finding - Failure To Follow The *Supreme Court Of Pennsylvania Administrative Office Of Pennsylvania Courts Record Retention & Disposition Schedule With Guidelines Procedures (Continued)*

Management's Response (Continued)

I would request that your office once again attempt to reduce the current delay in the time period between audits which results in both a cost savings to the County and the reduction for potential errors such as the one encountered in this audit.

Auditor's Conclusion

Although we recognize the district court's concerns about storing records, it is imperative that all records are retained until after they have been subject to examination by the Department of the Auditor General.

DISTRICT COURT 31-2-03
LEHIGH COUNTY
OBSERVATION
FOR THE PERIOD
JANUARY 1, 2004 TO DECEMBER 31, 2007

Observation - Improper Assessment Of Costs

Our examination of Lehigh County District Courts revealed that the courts were assessing a \$10 fee to cover the additional administrative costs related to establishing installment payment plans in summary conviction cases, pursuant to the provisions of 42 Pa.C.S.A. § 1725.1(c)(5), relating to unclassified costs. Lehigh County District Courts were authorized to assess this cost on all summary cases when the defendant in the summary case requests and is permitted to make installment payments as provided in Pa.R.Crim.P. 454 (F) (1), Trial in Summary Cases.

The Lehigh County Courts interpret such language for the purpose of their Administrative Orders, to mean they are authorized to charge a \$10 fee for defendants paying costs and fines through installment payment plans. However, the subchapter in question, 42 Pa.C.S.A. § 1725.1(c)(5) titled “Specific Powers of the Governing Authority of the System,” provides for fees to be charged by the courts for various actions relating to issuing documents, such as court orders and warrants, in civil cases, custody cases, and criminal cases, not for establishing a payment schedule for defendants.

Recommendations

We recommend that district court discontinue assessing the above-cited fee. We further recommend that Lehigh County Courts assess fees and costs as intended by the appropriate state statutes.

Management’s Response

The President Judge responded as follows:

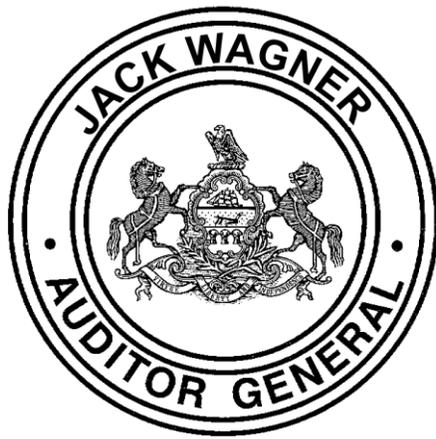
This order was adopted pursuant to the authority set forth in 42 Pa.C.S. Section 1725.1 (c) (5), and therefore was a proper exercise of the authority vested in the courts by the statute since it, in reality is a fee for the “issuance” of the payment plan or court order adopting the payment plan in the case. This is obviously so because that is the authority cited for the \$10.00 fee. Admittedly, there is language about recovering administrative costs, but those costs, over and above the costs of setting up the payment plan, far exceed the \$10.00 fee set for the initial plan. If the auditor is not willing to withdraw this “observation,” the current President Judge has indicated he will clarify the Administrative Order by amendment to reflect this intent.

DISTRICT COURT 31-2-03
LEHIGH COUNTY
OBSERVATION
FOR THE PERIOD
JANUARY 1, 2004 TO DECEMBER 31, 2007

Observation - Improper Assessment Of Costs (Continued)

Auditor's Conclusion

As previously stated, 42 Pa.C.S.A. § 1725.1(c)(5) allows for fees to be assessed against parties serving documents, such as warrants and protection from abuse orders. Setting up an installment payment plan for a defendant to pay costs and fines does not include the “issuance” of any documents, but rather is simply an administrative program to keep track of how much a defendant has paid. Lehigh County amending its Administrative Order to include the word “issuance” does not correct the original problem, which is Lehigh County improperly assessing additional fees against defendants.



DISTRICT COURT 31-2-03
LEHIGH COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2004 TO DECEMBER 31, 2007

This report was initially distributed to:

Mr. Stephen H. Stetler
Acting Secretary
Pennsylvania Department of Revenue

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

District Court 31-2-03
Lehigh County
1375 Chestnut Street
East Penn Plaza
Emmaus, PA 18049

The Honorable Donna R. Butler	Magisterial District Judge
Ms. Susan T. Schellenberg	District Court Administrator
The Honorable Thomas Slonaker	Controller
Dr. Percy Dougherty	Chairman of the Board of Commissioners

This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, 318 Finance Building, Harrisburg, PA 17120. To view this report online or to contact the Department of the Auditor General, please access our web site at www.auditorgen.state.pa.us.