

DISTRICT COURT 23-2-02

BERKS COUNTY

EXAMINATION REPORT

FOR THE PERIOD

JANUARY 1, 2007 TO DECEMBER 31, 2010



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BERKS COUNTY

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**Department of the Auditor General
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania 17120-0018**

**JACK WAGNER
AUDITOR GENERAL**

Independent Auditor's Report

The Honorable Daniel P. Meuser
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, 2007 to December 31, 2010, 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, 2010, 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:

- Receipts Were Not Always Deposited On The Same Day As Collected.
- Bank Deposit Slips Were Not Always Validated.
- Missing Case Files.
- 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*. However, we did note an other matter that, while not required to be included in this report by *Government Auditing Standards*, has been included in the finding below:

- Late Payments To The Department Of Revenue.

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. Additionally, during our current examination, we noted several significant weaknesses in the internal controls over bank deposit slips and case files that need corrective action. These significant deficiencies could result in uncollected fines and unpunished offenders and increase the risk for funds to be lost or misappropriated. Furthermore, 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 action as noted in this examination.

Independent Auditor's Report (Continued)

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.

A handwritten signature in black ink that reads "Jack Wagner". The signature is written in a cursive style with a long horizontal flourish extending to the right.

January 4, 2012

JACK WAGNER
Auditor General

DISTRICT COURT 23-2-02
 BERKS COUNTY
 STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2007 TO DECEMBER 31, 2010

Receipts:

Department of Transportation		
Title 75 Fines	\$	332,468
Motor Carrier Road Tax Fines		50
Overweight Fines		5,071
Littering Law Fines		1,040
Child Restraint Fines		1,740
Department of Revenue Court Costs		246,685
Crime Victims' Compensation Bureau Costs		35,002
Crime Commission Costs/Victim Witness Services Costs		25,186
Domestic Violence Costs		10,155
Department of Agriculture Fines		35
Emergency Medical Service Fines		98,250
CAT/MCARE Fund Surcharges		309,507
Judicial Computer System Fees		117,157
Access to Justice Fees		29,691
Criminal Justice Enhancement Account Fees		1,283
Judicial Computer Project Surcharges		5,832
Constable Service Surcharges		17,254
Miscellaneous State Fines		2,276
		<hr/>
Total receipts (Note 2)		1,238,682
Disbursements to Commonwealth (Note 3)		<hr/> (1,238,814)
Balance due Commonwealth (District Court) per settled reports (Note 4)		(132)
Examination adjustments		<hr/> -
Adjusted balance due Commonwealth (District Court) for the period January 1, 2007 to December 31, 2010	\$	<hr/> <hr/> (132)

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, 2007 TO DECEMBER 31, 2010

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	\$ 1,238,814
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4. Balance Due Commonwealth (District Court) For The Period January 1, 2007 To December 31, 2010

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, 2007 to December 31, 2010.

DISTRICT COURT 23-2-02
BERKS COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2010

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 60 receipts tested, 25 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.

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.

Without a good system of internal control over funds received by the office, the possibility of funds being lost or misappropriated increases significantly.

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

This finding was cited in our last two audit periods, the most recent ending December 31, 2006.

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.

DISTRICT COURT 23-2-02
BERKS COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2010

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

Management's Response

The Magisterial District Judge responded as follows:

We are working to improve.

Auditor's Conclusion

This is a recurring finding. We strongly recommend that the office comply with our recommendation.

DISTRICT COURT 23-2-02
BERKS COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2010

Finding No. 2 - Bank Deposit Slips Were Not Always Validated

Our examination of the district court's accounting records disclosed that the cash portion of deposit was not validated by the bank in 31 of the 60 deposits tested.

Good internal accounting controls require that the amount of each check and the total amount of cash deposited are identified on the deposit slip. The office copy of each deposit should be brought to the bank to be validated.

Without a good system of internal control over funds received by the office, the possibility of funds being lost or misappropriated increases significantly.

The district court was not aware of the potential internal control weaknesses caused by not having a validated deposit slip.

Recommendation

We recommend that the district court secure the bank's validation on the court's copy of the deposit slip.

Management's Response

The Magisterial District Judge responded as follows:

This is a bank issue that we are working to improve.

Auditor's Conclusion

We appreciate the Magisterial District Judge's effort to correct this condition. We strongly recommend that the Magisterial District Judge 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 or misappropriated.

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

DISTRICT COURT 23-2-02
BERKS COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2010

Finding No. 3 - Missing Case Files

Our examination of the district court required that certain case files be examined. We encountered considerable difficulty in finding a number of case files. There were 6 out of 51 case files needed for testing that could not be located.

In order for an entity to have an efficient record-keeping system, each court document must be filed timely and properly. Additionally, the *Magisterial District Judge Automated Office Clerical Procedures Manual* (Manual) outlines the proper filing procedures for all district courts to follow.

The failure to follow these guidelines could result in case file documents being lost, misfiled, or intentionally destroyed. Additionally, collections associated with missing case files and documents could be 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 case files.

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

Recommendation

We recommend that the district court initiate procedures to ensure that all cases are properly filed and contain appropriate documents as outlined in the Manual.

Management's Response

The Magisterial District Judge responded as follows:

We had multiple county audits with those auditors having free access to go through the files themselves. It is probably not the court's fault.

Auditor's Conclusion

The district court should ensure all case files are accounted for and maintained until after they have been subjected to examination by the Department of the Auditor General.

DISTRICT COURT 23-2-02
BERKS COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2010

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 tested 54 instances in which a warrant was required to be issued. Our testing disclosed that 29 were not issued timely and 2 were not issued at all. The time of issuance ranged from 69 days to 1,165 days.

In addition, of 49 warrants required to be returned or recalled, 36 were not returned or recalled, and 3 were not returned timely. The time of issuance to the time of return ranged from 274 days to 665 days.

Furthermore, we tested 30 instances in which a DL-38 was required to be issued. Our testing disclosed that seven were not issued timely and one was not issued at all. The time of issuance ranged from 79 days to 272 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.

DISTRICT COURT 23-2-02
BERKS COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2010

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 Department of Transportation by issuing the appropriate License Suspension Request (AOPC 638B,D,E).

DISTRICT COURT 23-2-02
BERKS COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2010

Finding No. 4 - 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 could result in uncollected fines and unpunished offenders. Additionally, the risk is increased that funds may 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.

This finding was cited in our last two audit periods, the most recent ending December 31, 2006.

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 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:

We are working to improve. However due to the volume of workload, it must be prioritized. Also, police officers are slow to return warrants.

Auditor's Conclusion

This is a recurring finding. We strongly recommend that the office comply with our recommendations.

DISTRICT COURT 23-2-02
 BERKS COUNTY
 FINDINGS AND RECOMMENDATIONS
 FOR THE PERIOD
 JANUARY 1, 2007 TO DECEMBER 31, 2010

Finding No. 5 - 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 19 of the 48 months examined. The following schedule identifies the late payments:

<u>Month/Year</u>	<u>Amount</u>	<u>Due Date</u>	<u>Date Check Issued</u>
January 2007	\$ 5,801.52	02/05/07	02/20/07
February 2007	3,043.56	03/05/07	03/14/07
April 2007	6,631.85	05/07/07	05/22/07
May 2007	4,794.08	06/05/07	06/15/07
June 2007	3,288.40	07/05/07	07/11/07
July 2007	2,343.60	08/06/07	08/08/07
August 2007	5,869.56	09/05/07	09/07/07
October 2007	3,466.08	11/05/07	11/13/07
December 2007	250.79	01/07/08	01/14/08
January 2008	5,346.81	02/05/08	02/07/08
February 2008	5,321.43	03/05/08	03/07/08
July 2008	4,889.39	08/05/08	08/08/08
September 2008	2,123.43	10/06/08	10/14/08
October 2008	5,224.92	11/05/08	11/13/08
December 2008	1,526.27	01/05/09	01/07/08
January 2009	5,946.47	02/05/09	02/11/09
June 2009	2,915.64	07/06/09	07/09/09
August 2009	1,614.10	09/08/09	09/22/09
May 2010	<u>5,218.97</u>	06/07/10	06/08/10
Total	<u>\$75,616.87</u>		

Additionally, 43 of the 174 weekly payments tested were not transmitted timely.

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

DISTRICT COURT 23-2-02
BERKS COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2010

Finding No. 5 - Late Payments To The Department Of Revenue (Continued)

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 our last two audit periods, the most recent ending December 31, 2006.

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*.

Management’s Response

The Magisterial District Judge responded as follows:

We are working to improve response.

Auditor’s Conclusion

This is a recurring finding. We strongly recommend that the office comply with our recommendation.



DISTRICT COURT 23-2-02
BERKS COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2010

This report was initially distributed to:

The Honorable Daniel P. Meuser
Secretary
Pennsylvania Department of Revenue

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

The Honorable Timothy M. Dougherty	Magisterial District Judge
The Honorable Mark C. Scott	Chairman of the Board of Commissioners
The Honorable Sandy Graffius	Controller
Mr. Stephen A. Weber	District Court Administrator

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.