



CLERK OF THE COURT OF COMMON PLEAS

YORK COUNTY

EXAMINATION REPORT

FOR THE PERIOD

NOVEMBER 23, 2004 TO DECEMBER 31, 2007

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## Independent Auditor's Report

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

We have examined the accompanying statement of receipts and disbursements (Statement) of the Clerk of the Court of Common Pleas, York County, Pennsylvania (County Officer), for the period November 23, 2004 to December 31, 2007, pursuant to the requirements of Section 401(b) of *The Fiscal Code*, 72 P.S. § 401(b). This Statement is the responsibility of the county office's management. Our responsibility is to express an opinion on this Statement based on our examination.

Except as discussed in the fourth paragraph, 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(b) of *The Fiscal Code* to audit the accounts of each county officer 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(b) of *The Fiscal Code*.

As discussed in Finding No. 2, various accounting records were missing and not available for the examination. Furthermore, as discussed in Finding No. 3, a population of manual receipts could not be determined. Without these records, we could not perform our standard examination

### Independent Auditor's Report (Continued)

procedures. As a result, the scope of our examination of the County Officer's Statement was limited, and we were unable to satisfy ourselves by other examination procedures.

In our opinion, except for the effects, if any, of the matters noted in the preceding paragraph, the Statement referred to above presents, in all material respects, the operations of the County Officer 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 County Officer'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 County Officer's Statement that is more than inconsequential will not be prevented or detected by the County Officer'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:

- Improper User ID Procedures.
- Missing Documents.
- Inadequate Manual Receipt Procedures.
- Inadequate Outstanding Check 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 County Officer'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 first three significant deficiencies described above 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:

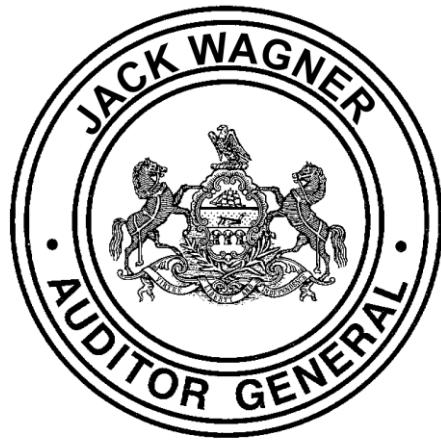
- Inadequate Assessment Of Surcharges And Costs.

We are concerned in light of the County Officer's failure to correct a previously reported finding regarding inadequate internal controls over receipts. Additionally, during our current examination, we noted several significant weaknesses in the internal controls over the use of the employee's User ID, document retention, improper stale check procedures, and inadequate assessment of surcharges and costs. These significant deficiencies increase the risk for funds to be lost or misappropriated. Additionally, the incorrect assessment of the surcharges and costs resulted in the defendant not being assessed the proper amount of surcharges and costs associated with the violation; which caused a loss of revenue to the Commonwealth. The County Officer should strive to implement the recommendations and corrective action noted in this examination report.

This report is intended solely for the information and use of the Pennsylvania Department of Revenue, the Administrative Office of Pennsylvania Courts, and the County Officer and is not intended to be and should not be used by anyone other than these specified parties.

April 16, 2009

JACK WAGNER  
Auditor General



CLERK OF THE COURT OF COMMON PLEAS  
YORK COUNTY  
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
NOVEMBER 23, 2004 TO DECEMBER 31, 2007

Receipts:

Department of Transportation		
Title 75 Fines	\$	485,927
Overweight Fines		113
Department of Revenue Court Costs		216,123
Crime Victims' Compensation Costs		724,371
Crime Commission Costs/Victim Witness Services Costs		561,362
Domestic Violence Costs		62,565
Emergency Medical Services Fines		61,150
DUI - ARD/EMS Fees		45,486
CAT/MCARE Fund Surcharges		359,515
Judicial Computer System/Access to Justice Fees		159,836
Offender Supervision Fees		1,441,194
Constable Service Surcharges		28,546
Criminal Laboratory Users' Fees		6,438
Probation and Parole Officers' Firearm Education Costs		53,241
Substance Abuse Education Costs		515,094
Office of Victims' Services Costs		52,566
Miscellaneous State Fines and Costs		<u>201,660</u>
Total receipts (Note 2)		\$ 4,975,187
Disbursements to Commonwealth (Note 3)		<u>(4,976,449)</u>
Balance due Commonwealth (County) per settled reports (Note 4)		(1,262)
Examination adjustments		<u>-</u>
Adjusted balance due Commonwealth (County) November 23, 2004 to December 31, 2007		<u>\$ (1,262)</u>

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



CLERK OF THE COURT OF COMMON PLEAS  
YORK COUNTY  
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
NOVEMBER 23, 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 summary and criminal cases filed with the Clerk of the Court of Common Pleas' Office.

3. Disbursements

Total disbursements are comprised as follows:

Clerk of the Court checks issued to:

Department of Revenue	\$ 4,877,471
Office of the Attorney General	1,651
Army National Guard	876
Commission on Crime and Delinquency	11
Commonwealth of Pennsylvania	3,672
Codorus State Park	139
Department of Transportation	4,080
Department of Public Welfare	45,063
Office of the Inspector General	34,759
Department of Labor and Industry	5,236
Lottery Commission	26
State Police	3,332
Board of Probation and Parole	<u>133</u>
Total	<u>\$ 4,976,449</u>

CLERK OF THE COURT OF COMMON PLEAS  
YORK COUNTY  
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
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4. Balance Due Commonwealth (County) For The Period November 23, 2004 To December 31, 2007

This balance reflects a summary of monthly transmittal reports as settled by the Department of Revenue. The balance also reflects a summary of any receipts disbursed directly to other state agencies.

5. Reconciliation Of Settled Reports

The following presents a reconciliation of monthly reports settled by the Department of Revenue for the period November 23, 2004 to December 31, 2007:

Date of Summary of Collections Report	Balance Due Settled Reports Commonwealth (County)	Adjustments	Adjusted Balance Due Commonwealth (County)
2004			
January	\$ -	\$ -	\$ -
February	-	-	-
March	-	-	-
April	-	-	-
May	-	-	-
June	-	-	-
July	-	-	-
August	-	-	-
September	-	-	-
October	-	-	-
November	-	-	-
December	(47)	-	(47)
2005			
January	-	-	-
February	-	-	-
March	-	-	-
April	-	-	-
May	-	-	-
June	-	-	-
July	-	-	-
August	(838)	-	(838)
September	(383)	-	(383)
October	-	-	-
November	(231)	-	(231)
December	211	-	211

CLERK OF THE COURT OF COMMON PLEAS  
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NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS  
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5. Reconciliation Of Settled Reports (Continued)

Date of Summary of Collections Report	Balance Due Settled Reports Commonwealth (County)	Adjustments	Adjusted Balance Due Commonwealth (County)
2006			
January	\$ -	\$ -	\$ -
February	(14)	-	(14)
March	(13)	-	(13)
April	-	-	-
May	(4)	-	(4)
June	-	-	-
July	(10)	-	(10)
August	-	-	-
September	-	-	-
October	-	-	-
November	10	-	10
December	191	-	191
2007			
January	-	-	-
February	-	-	-
March	-	-	-
April	-	-	-
May	-	-	-
June	-	-	-
July	-	-	-
August	(54)	-	(54)
September	-	-	-
October	(60)	-	(60)
November	(20)	-	(20)
December	-	-	-
Balance due Commonwealth (County) per settled reports			(1,262)
Examination adjustments			-
Adjusted balance due Commonwealth (County) November 23, 2004 to December 31, 2007			<u>\$ (1,262)</u>

6. County Officer Serving During Examination Period

Donald R. O'Shell served as the Clerk of the Court of Common Pleas for the period November 23, 2004 to December 31, 2007.

CLERK OF THE COURT OF COMMON PLEAS  
YORK COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
NOVEMBER 23, 2004 TO DECEMBER 31, 2007

Finding No. 1 - Improper User ID Procedures

During our examination, we noted that one individual's User ID and password were utilized by another county employee to process payments in the computer system.

A good system of internal accounting controls requires that each employee use his or her own User ID and password when processing transactions through the computer system. When the terminal is not in use, the employee should log off the computer system. Employee passwords should never be shared among other employees. These controls enable the office to maintain documentation of who processed each transaction through the computer system.

This condition existed because the office failed to establish and implement an adequate system of internal controls over the use of User IDs on the computer terminal.

Without a good system of internal controls over the use of User IDs and passwords, the potential is increased that funds could be lost or misappropriated. Additionally, the processing of transactions and errors or irregularities could occur without being able to identify the individual who made the transaction.

Recommendation

We recommend that the office adhere to a good system of internal accounting controls by requiring employees of the office to log on to computers by using their own individual User IDs and passwords so that each transaction can be identified with the employee processing the transaction. Additionally, when the terminal is not in use, employees should log off the system.

Management's Response

The County Officer responded as follows:

I replied to that concern in my December 17, 2008 email where I explained that York County Treasurer had been granted access to CPCMS with her own user ID on November 10, 2004. The Treasurer was then assisting this office with the transition from our legacy system to CPCMS with regard to the financial component.

Your audit also revealed that rather than use her authorized log on, the Treasurer used that of her husband, who was then my chief deputy. As you noted in the exit interview, this unauthorized use of her husband's log on was discovered or confirmed as the Treasurer used her own initials for transactions within CPCMS.

CLERK OF THE COURT OF COMMON PLEAS  
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Finding No. 1 - Improper User ID Procedures (Continued)

Obviously, there was no attempt to hide or shield the actual user processing within CPCMS. Nonetheless, I recognize that such a practice undermines the integrity of the system and makes accountability for such transactions problematic. Fortunately this scenario represents an isolated problem. No such ID sharing took place apart from this instance.

Following the Chief Deputy's resignation from this office in December 2006, I submitted the Deputy's CPCMS log on for deactivation on December 22, 2006, and the Treasurer's CPCMS log on for deactivation on January 8, 2007. Consequently, this finding does not represent an on-going or future concern.

Auditor's Conclusion

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

CLERK OF THE COURT OF COMMON PLEAS  
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Finding No. 2 - Missing Documents

Our examination of the office required that certain case files be examined. Supporting financial documentation such as bank statements, accounting records, and deposit slips for December 2004 was not available for examination. In addition, eight out of nine voided receipts selected to be tested were missing and could not be located.

This condition existed because the office failed to establish and implement an adequate system of internal controls over supporting documentation.

Good internal accounting controls ensure that all supporting documentation is properly accounted for and maintained. In addition, all documentation should be kept until audited by the Department of the Auditor General.

Without a good system of internal controls over supporting documentation, the potential is increased that collections associated with missing documents could be misappropriated.

Recommendation

We recommend that the office establish and implement procedures to ensure that all supporting documentation is properly accounted for and maintained as required by good internal accounting controls. In addition, all documentation should be kept until audited by the Department of the Auditor General.

Management's Response

The Clerk of the Court of Common Pleas responded as follows:

It is noted that some of the requested documentation during the course of the audit could not be located. We can only conclude that some of the documentation was misfiled in another box. Current year financial documents are maintained on-site within the Records Unit file room within the Clerk's office.

Following the County Audit, the prior year's records are boxed and labeled as per the Retention Manual and sent to York County Archives with the retention date listed. I believe this procedure is more than adequate to maintain and retrieve such files for review during future audits.

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Finding No. 2 - Missing Documents (Continued)

Management's Response (Continued)

I recognize there was a problem in maintaining voided receipts for this audit period. However, this problem has largely been rectified with the departure of my former chief deputy. I do not expect this to be a finding in the future as we are maintaining such documentation at present.

Auditor's Conclusion

As stated above, all records must be properly accounted for and maintained as required by good internal accounting controls. In addition, all documentation should be kept until audited by the Department of the Auditor General.

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Finding No. 3 - Inadequate Manual Receipt Procedures

Manual receipts are available to be issued in the event of a temporary power loss to the office's computer system. When the computer system is operating again, the manual receipt is replaced by an official computer-generated receipt and included in the daily receipts. During the course of our examination we noted that the office changed to the new state computer system, Common Pleas Case Management System (CPCMS) on November 23, 2004.

Our examination disclosed that there were inadequate internal controls over manual receipts.

In testing the manual receipts generated under the old computer system and available to be used during the current examination period, we noted the following:

- There were 84 manual receipts which could not be located and were not available for examination.
- There were 14 instances in which the manual receipt number was not entered into the computer system when the corresponding computer receipt was generated.
- There were 11 manual receipts that were not properly completed.
- There were 2 instances in which the computer receipt was not generated timely after the issuance of the corresponding manual receipt. The time lapse from the date of the manual receipt to the corresponding computer receipt was 7 days to 24 days.

We further noted that a manual receipts log was not maintained to record the issuance of manual receipts. Consequently, a population of manual receipts could not be determined.

In testing the manual receipts generated under the new computer system, we noted the following:

- There were 100 manual receipts which could not be located and were not available for examination.
- There were 14 instances in which the manual receipt number was not entered into the computer system when the corresponding computer receipt was generated.
- There were two manual receipts that were not properly completed.
- The docket number for two manual receipts was not recorded on the manual receipts log.



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Finding No. 3 - Inadequate Manual Receipt Procedures (Continued)

- The manual receipt log sheets for manual receipt Nos. 1 to 80 were not completed.

These conditions existed because the office failed to establish and implement an adequate system of internal controls over manual receipts.

Good internal accounting controls ensure that:

- All manual receipts are accounted for and maintained.
- Manual receipt numbers are entered in the manual receipt number field on the computer when the corresponding computer receipts are generated.
- All required information is recorded on the manual receipt and manual receipt log, including date issued, date filed, citation number, signature of the person receiving the payment, remitter name, docket number, phone number, payment source, and payment method.
- Computer receipts are generated timely after the issuance of the corresponding manual receipts.
- A manual receipt log is maintained to document information that is recorded on the manual receipt, including date issued, date filed, case number, signature of the person receiving the payment, remitter name, payment source, and payment method. This will provide an audit trail on the issuance of the manual receipt.

Without a good system of internal controls over funds received by the office, the potential is increased that funds could be lost or misappropriated.

Adherence to good internal accounting controls would have ensured adequate internal controls over collections.

The condition relating to manual receipts which could not be located and not being available for examination was cited in the prior audit for the period ending November 23, 2004.

Recommendation

We again recommend that the office establish and implement an adequate system of internal controls over manual receipts as noted above.

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Finding No. 3 - Inadequate Manual Receipt Procedures (Continued)

Management's Response

The Clerk of the Court of Common Pleas responded as follows:

I acknowledge that manual receipts were not properly tracked and secured during the audit period. Failure to locate manual receipts for use when our legacy system (Lightspeed) was down and initially in use when CPCMS was down was compounded by the departure of my former chief deputy who originally created/generated and maintained the manual receipts. I regret that exhaustive searches of his computer and paper files did not reveal the location of said receipts.

This office no longer uses or maintains in-house manual receipts and relies exclusively on manual receipts printed from CPCMS and in stock in the event the CPCMS application is down. That practice should eliminate any future findings regarding in-house manual receipts.

In regard to CPCMS manual receipts we have noted the findings/recommendations and shared those with the entire Costs and Fines staff. The Costs and Fines Manager and I will ensure that we maintain an "adequate system of internal controls" with reference to manual receipts. I expect that such concerns will not be a problem going forward.

Auditor's Conclusion

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

CLERK OF THE COURT OF COMMON PLEAS  
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Finding No. 4 - Inadequate Outstanding Check Procedures

Our examination of the office checking account disclosed that the office was carrying outstanding checks totaling \$32,013, dated from April 30, 2005 to July 27, 2007, that were still outstanding as of December 31, 2007.

The office did not take appropriate follow-up action on long outstanding checks.

Good internal accounting controls require that the office follow-up on all outstanding checks. If a check is outstanding for a period over 90 days, efforts should be made to locate the payee. If efforts to locate the payee are unsuccessful, the amount of the check should be removed from the outstanding checklist, added back to the checkbook balance, and subsequently held in escrow for unclaimed escheatable funds.

This condition existed because the office failed to establish adequate internal controls over its outstanding check procedures.

The failure to follow these procedures results in a weakening of internal controls over the cash account and inefficiency caused by the needless record-keeping of outstanding checks.

Recommendation

We recommend that the office establish and implement a procedure whereby outstanding checks are reviewed monthly to determine if there are any long outstanding checks. If checks remain outstanding and attempts to contact payees after 90 days are unsuccessful, the office should reinstate the amount of outstanding checks to the checking account and subsequently hold these monies in escrow for unclaimed escheatable funds.

Management's Response

The Clerk of the Court of Common Pleas responded as follows:

It was noted that [Clerk's] Bank, the Clerk of the Court of Common Pleas' bank, has been honoring checks 60 days plus though the printed checks note a disclaimer that the check is not valid past 60 days. We will begin running CPCMS Report # 1047 Check Register by Date Range on a monthly basis to identify, attempt to contact the check recipient and ultimately void stale/uncashed checks if unable to contact the recipient.

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Finding No. 4 - Inadequate Outstanding Check Procedures (Continued)

Management's Response (Continued)

Stale checks that are voided will be reinstated to the Clerk of the Court of Common Pleas' checking account and remitted to the County Treasurer for deposit into the escheat account as recommended.

Auditor's Conclusion

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

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Finding No. 5 - Inadequate Assessment Of Surcharges And Costs

Our examination disclosed that the office did not assess certain surcharges and costs as mandated by law. Of 87 cases tested, we noted the following discrepancies:

- There were five cases in which the Constable Education and Training Surcharge was not assessed properly.
- There were 17 cases in which the DNA Cost was not assessed.
- There were two cases in which the Catastrophic Fund Surcharge was not assessed.
- There were three cases in which the Amber Alert System Cost was not assessed.

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

- Title 42 Pa.C.S.A. § 2949 (b) provides for the collection of the Constable Education and Training Surcharge. If service is performed by a constable or deputy constable, a \$5 fee per docket for criminal and summary cases shall be maintained and collected.
- Effective January 31, 2005, Title 44 P.S. § 2322, specifies that all felonies, regardless of offense, and misdemeanors for § 2910 (relating to luring a child into a motor vehicle), and § 3126 (relating to indecent assault) authorizes the automatic assessment of a \$250 DNA cost when a DNA sample is taken.
- Title 75 Pa. C.S.A. § 6506(a) provides for the collection of the Catastrophic Fund Surcharge.
- Title 35 P.S. § 7025.4(a) provides for the collection of the Amber Alert System Cost. Unless the court finds that undue hardship would result, in addition to any other cost imposed by law, a cost of \$25 shall automatically be assessed on each person convicted, adjudicated delinquent or granted accelerated rehabilitative disposition (ARD) of the offenses in 18 Pa.C.S. § 2901 -2910.

The improper assessment of these surcharges and costs resulted in the defendant not being assessed the proper amount of surcharges and costs associated with the violation which caused a loss of revenue to the Commonwealth.

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Finding No. 5 - Inadequate Assessment Of Surcharges And Costs (Continued)

These incorrect assessments occurred because the office was not aware or up-to-date on laws and regulations regarding the proper assessment of Commonwealth surcharges and costs.

Recommendation

We recommend that the office review the laws noted above to ensure that surcharges and costs are assessed as mandated by law.

Management's Response

The Clerk of the Court of Common Pleas responded as follows:

The finding as you noted concerned the lack of assessment of four different types of fines, costs, fees and surcharges as mandated by law. One assessment – the \$250 DNA cost-was not added as required by Title 44 P.S. Section 2322 effective January 31, 2005.

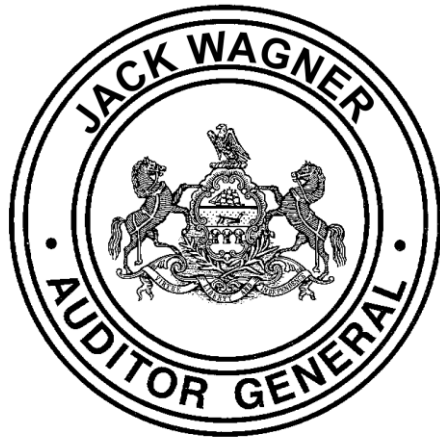
In the follow-up to that particular finding this office requested a report from the Administrative Office of Pennsylvania Courts (AOPC) who maintains the statewide Common Pleas Case Management Systems (CPCMS) of all such cases where that assessment should have been added. In reviewing that report we have determined that approximately 4,000 cases require the assessment to be added.

To accomplish the task the York County Salary Board has authorized the hire of a per diem clerk to add this assessment and the others noted in this finding.

Further we will continue to ensure such assessments are accurately added going forward. This office receives regular updates-“CPCMS User Updates”-from AOPC with the regard to such changes in law. Additionally, I review the PA Bulletin weekly for published changes in law or regulation that impact this office.

Auditor's Conclusion

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



CLERK OF THE COURT OF COMMON PLEAS  
YORK COUNTY  
REPORT DISTRIBUTION  
FOR THE PERIOD  
NOVEMBER 23, 2004 TO DECEMBER 31, 2007

This report was initially distributed to:

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The Honorable Zygmunt Pines  
Court Administrator of Pennsylvania  
Supreme Court of Pennsylvania  
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Clerk of the Court of Common Pleas  
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The Honorable Donald R. O'Shell	Clerk of the Court of Common Pleas
The Honorable Robert P. Green	Controller
The Honorable M. Steve Chronister	Chairman of the Board of Commissioners
The Honorable Robert M. McCord	Pennsylvania State Treasurer
The Honorable Richard K. Renn	President Judge of York County

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