



CLERK OF THE COURT OF COMMON PLEAS

BERKS COUNTY

EXAMINATION REPORT

FOR THE PERIOD

JUNE 1, 2005 TO DECEMBER 31, 2009

CONTENTS

	<u>Page</u>
Independent Auditor’s Report	1
Financial Section:	
Statement Of Receipts And Disbursements.....	5
Notes To The Statement Of Receipts And Disbursements.....	6
Findings And Recommendations:	
Finding No. 1 - Inadequate Internal Controls Over The Bank Account	9
Finding No. 2 - Inadequate Assessment Of Costs	11
Comment.....	13
Report Distribution	15



**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 the Clerk of the Court of Common Pleas, Berks County, Pennsylvania (County Officer), for the period June 1, 2005 to December 31, 2009, 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.

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*.

Independent Auditor's Report (Continued)

In our opinion, 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, 2009, 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 deficiency described in the finding below to be a significant deficiency in internal control over the reporting on the Statement:

- Inadequate Internal Controls Over The Bank Account.

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 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*. 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:

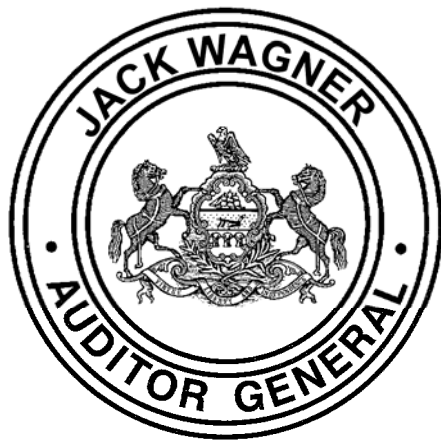
- Inadequate Assessment Of Costs.

We are concerned in light of the County Officer's failure to correct a previously reported finding regarding inadequate internal controls over the bank account. Additionally, during our current examination, we noted weaknesses in the internal controls over the assessment of costs. These significant deficiencies increase the risk for funds to be lost or misappropriated. Additionally, the incorrect assessment of costs resulted in the defendant being over assessed the proper amount of costs associated with the violation. 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.

December 20, 2010

JACK WAGNER
Auditor General



CLERK OF THE COURT OF COMMON PLEAS
 BERKS COUNTY
 STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JUNE 1, 2005 TO DECEMBER 31, 2009

Receipts:

Department of Transportation		
Title 75 Fines	\$	311,256
Overweight Fines		1,615
Department of Revenue Court Costs		201,032
Crime Victims' Compensation Costs		802,557
Crime Commission Costs/Victim Witness Services Costs		592,042
Domestic Violence Costs		34,688
Emergency Medical Services Fines		36,784
DUI - ARD/EMS Fees		63,342
CAT/MCARE Fund Surcharges		316,085
Judicial Computer System		138,426
Access to Justice Fees		26,299
Offender Supervision Fees		3,201,591
Constable Service Surcharges		3,781
Criminal Laboratory Users' Fees		74,052
Probation and Parole Officers' Firearm Education Costs		47,152
Substance Abuse Education Costs		711,481
Office of Victims' Services Costs		18,933
Miscellaneous State Fines and Costs		<u>529,429</u>
 Total receipts (Note 2)	 \$	 7,110,545
 Disbursements to Commonwealth (Note 3)		 <u>(7,110,545)</u>
 Balance due Commonwealth (County) per settled reports (Note 4)		 -
 Examination adjustments		 <u>-</u>
 Adjusted balance due Commonwealth (County) for the period June 1, 2005 to December 31, 2009	 \$	 <u><u>-</u></u>

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

CLERK OF THE COURT OF COMMON PLEAS
 BERKS COUNTY
 NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JUNE 1, 2005 TO DECEMBER 31, 2009

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	\$ 7,058,700
Department of Public Welfare	7,375
Commonwealth of Pennsylvania	1,149
Administrative Office of Pennsylvania Courts	352
Treasury Department	18
Commission on Crime and Delinquency	676
Office of Attorney General	10,280
State Police	30,677
Department of Labor and Industry	22
Department of Corrections	872
Department of Transportation	424
	<hr/>
Total	<u><u>\$ 7,110,545</u></u>

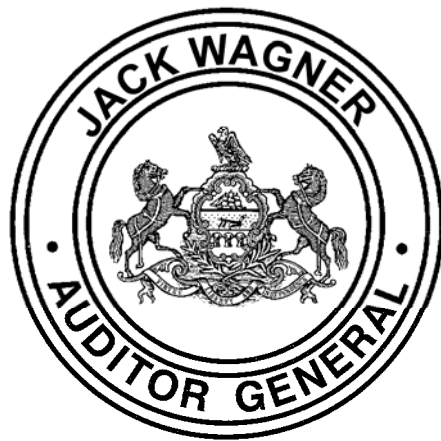
CLERK OF THE COURT OF COMMON PLEAS
BERKS COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JUNE 1, 2005 TO DECEMBER 31, 2009

4. Balance Due Commonwealth (County) For The Period June 1, 2005 To December 31, 2009

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. County Officer Serving During Examination Period

James P. Troutman served as the Clerk of the Court of Common Pleas for the period June 1, 2005 to December 31, 2009.



CLERK OF THE COURT OF COMMON PLEAS
BERKS COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JUNE 1, 2005 TO DECEMBER 31, 2009

Finding No. 1 - Inadequate Internal Controls Over The Bank Account

Our examination of the accounting records for the office disclosed the following deficiencies in the internal controls over the bank account:

- There was no adequate accountability over undisbursed funds. Funds on hand exceeded recorded obligations by approximately \$35,500.
- There were 2,162 outstanding checks totaling approximately \$85,000, dated from January 16, 2006 to June 10, 2009, which were still outstanding as of December 31, 2009.

A good system of internal controls ensures that:

- The ending adjusted bank balance is reconciled with liabilities on a monthly basis and any discrepancies are immediately investigated and resolved. Since the bank account of the office is essentially an escrow account on behalf of the Commonwealth, County, and other participating entities, all available funds on hand should equal unpaid obligations.
- Adequate procedures are established to follow-up on all outstanding checks. If a check is outstanding for over 180 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.

Without a good system of internal controls over the bank account, the possibility of funds being lost or misappropriated increases significantly.

The condition in the first bullet was cited in our last three audit periods, the most recent ending May 31, 2005. The condition in the second bullet was cited in our last four audit periods, the most recent ending May 31, 2005.

These conditions existed because the office failed to establish adequate internal controls over its bank account.

CLERK OF THE COURT OF COMMON PLEAS
BERKS COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JUNE 1, 2005 TO DECEMBER 31, 2009

Finding No. 1 - Inadequate Internal Controls Over The Bank Account (Continued)

Recommendation

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

Management's Response

The County Officer responded as follows:

The 2,162 outstanding checks in the fines, costs and restitution account have all been voided and escheated to the county of Berks as of December 31, 2010 except for eight. In addition, the remaining 300 checks for July through December of 2009 were also voided and escheated to the county of Berks excluding seven. The total amount for the 2,447 checks voided and escheated to the county of Berks is \$94,954.80. The remaining fifteen checks are problems and are being investigated and will be voided, escheated or reissued to the recipient at the correct address once a determination has been made. The reason for the delay in voiding the 2,462 checks was due to escrow migration issue when the county of Berks went live on the common pleas case management system in June of 2005. The escrow was finally reconciled in 2010 with the assistance of the AOPC [Administrative Office of Pennsylvania Courts] accounting staff. We waited to start voiding the checks until the completion of the county and state audits to verify the balance in the account and that monies were not owed to either party. The overage of \$35,000 will be reviewed and proper distribution to the correct recipient or to the county of Berks will occur upon completion of the county audit.

Auditor's Conclusion

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

CLERK OF THE COURT OF COMMON PLEAS
BERKS COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JUNE 1, 2005 TO DECEMBER 31, 2009

Finding No. 2 - Inadequate Assessment Of Costs

Our examination disclosed that the office did not correctly assess certain costs as mandated by law. We noted the following discrepancies:

- In three DUI cases tested in which the case had an accelerated rehabilitative disposition (ARD), all three had a \$200 Substance Abuse Education Cost incorrectly assessed.

Substance Abuse Education Costs, effective for cases filed on/after February 7, 2003, amended Title 18 by adding Section 7508. This section imposed a \$100 cost on driving under the influence (DUI) offenses and on all drug related offenses covered in the Controlled Substance, Drug, Device and Cosmetic Act. Also, effective February 1, 2004, DUI offenses in which the offender's blood alcohol level is greater than .16% require an additional \$200 cost. The cost is distributed 50/50 between the County and Commonwealth. NOTE: This additional cost is NOT to be assessed on ARD or nolo contendere cases.

The improper assessing of these costs resulted in the defendant not being assessed the proper amount of costs associated with the violation.

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

Recommendation

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

Management's Response

The County Officer responded as follows:

We dispute the finding of the state auditor that we overcharged three cases [in which] the substance abuse education and demand reduction cost [was assessed]. We can find no statute to support his finding.

CLERK OF THE COURT OF COMMON PLEAS
BERKS COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
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Finding No. 2 - Inadequate Assessment Of Costs (Continued)

Auditor's Conclusion

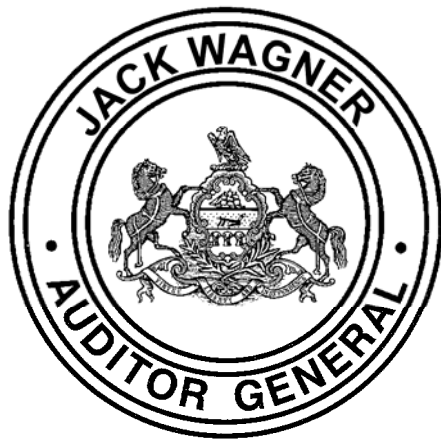
Enhanced Substance Abuse Education Costs should only be assessed in cases where the case results in a conviction or an adjudication. ARD is not a conviction or adjudication, therefore the additional costs should not be assessed in those instances.

CLERK OF THE COURT OF COMMON PLEAS
BERKS COUNTY
COMMENT
FOR THE PERIOD
JUNE 1, 2005 TO DECEMBER 31, 2009

Comment - Compliance With Prior Examination Recommendation

During our prior examination, we recommended that the office review the law to ensure the Constable Education and Training Surcharge is assessed as mandated by law.

During our current examination, we noted that the office complied with our recommendation.



CLERK OF THE COURT OF COMMON PLEAS
BERKS COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JUNE 1, 2005 TO DECEMBER 31, 2009

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

Mr. Thomas J. Dougherty
Director
Division of Grants and Standards
Pennsylvania Board of Probation and Parole

The Honorable Robert M. McCord
Pennsylvania State Treasurer
Treasury Department

The Honorable James P. Troutman	Clerk of the Court of Common Pleas
The Honorable Sandy Graffius	Controller
The Honorable Mark C. Scott	Chairman of the Board of Commissioners
The Honorable Jeffrey L. Schmehl	President Judge

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