

CLERK OF THE COURT OF COMMON PLEAS

SCHUYLKILL COUNTY

AUDIT REPORT

FOR THE PERIOD

JANUARY 1, 2002 TO JANUARY 20, 2005

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Independent Auditor's Report

The Honorable Gregory C. Fajt
Secretary
Department of Revenue
Harrisburg, PA 17128

We have audited the accompanying statement of receipts and disbursements – cash basis of the Clerk of The Court of Common Pleas, Schuylkill County, Pennsylvania (County Officer), for the period January 1, 2002 to January 20, 2005, pursuant to the requirements of Section 401(b) and 902 of *The Fiscal Code*. This financial statement is the responsibility of the county office's management. Our responsibility is to express an opinion on this statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described more fully in Note 1, the accompanying financial statement was prepared using accounting practices prescribed by the Pennsylvania Department of Revenue, which practices differ from accounting principles generally accepted in the United States of America. The effects on the financial statement of the variances between these regulatory accounting practices and accounting principles generally accepted in the United States of America, although not reasonably determinable, are presumed to be material. The financial statement presents only the Commonwealth portion of cash receipts and disbursements and is not intended to present fairly the financial position and results of operations of the County Officer, in conformity with accounting principles generally accepted in the United States.

Independent Auditor's Report (Continued)

In our opinion, because of the effects of the matter discussed in the preceding paragraph, the financial statement referred to above does not present fairly, in conformity with accounting principles generally accepted in the United States of America, the financial position of the County Officer, as of January 20, 2005, the changes in its financial position, or where applicable, its cash flows for the period then ended.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the operations of the County Officer as it pertains to receipts made on behalf of the Department of Revenue and other state agencies for the period January 1, 2002 to January 20, 2005, on the basis of accounting described in Note 1.

In accordance with *Government Auditing Standards*, we have also issued our report dated December 21, 2005, on our consideration of the County Officer's internal control over financial reporting and on our tests of its compliance with certain provisions of laws and regulations. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit.

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 21, 2005

JACK WAGNER
Auditor General

CLERK OF THE COURT OF COMMON PLEAS
SCHUYLKILL COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS – CASH BASIS
FOR THE PERIOD
JANUARY 1, 2002 TO JANUARY 20, 2005

Receipts:

Department of Transportation			
Title 75 Fines	\$	55,961	
Overweight Fines		1,768	
Department of Revenue Court Costs		51,408	
Crime Victims' Compensation Costs		62,021	
Crime Commission Costs/Victim Witness Services Costs		66,828	
Department of Public Welfare			
Domestic Violence Costs		14,423	
Costs		1,746	
Pennsylvania State Police Costs		2,692	
Pennsylvania Office of Attorney General Costs		2,337	
Pennsylvania Department of Transportation Costs		9,657	
Emergency Medical Services Fines		8,316	
DUI - ARD/EMS Fees		15,664	
CAT/MCARE Fund Surcharges		83,974	
Judicial Computer System/Access to Justice Fees		4,682	
Offender Supervision Fees		684,986	
Constable Service Surcharges		15	
Criminal Laboratory Users' Fees		32,075	
Probation and Parole Officers' Firearm Education Costs		13,839	
Substance Abuse Education Costs		53,495	
Office of Victims' Services Costs		41,157	
Miscellaneous State Fines and Costs		84,581	
		84,581	
 Total receipts (Note 2)			 \$ 1,291,625
 Disbursements to Commonwealth (Note 3)			 <u>(1,291,655)</u>
 Balance due Commonwealth (County) per settled reports (Note 4)			 (30)
 Audit adjustments			 <u>-</u>
 Adjusted balance due Commonwealth (County) for the period January 1, 2002 to January 20, 2005			 <u>\$ (30)</u>

Notes to the financial statement are an integral part of this report.

CLERK OF THE COURT OF COMMON PLEAS
SCHUYLKILL COUNTY
NOTES TO THE FINANCIAL STATEMENT
FOR THE PERIOD
JANUARY 1, 2002 TO JANUARY 20, 2005

1. Summary Of Significant Accounting Policies

Basis Of Presentation

The financial statement was prepared in accordance with the requirements of the Pennsylvania Department of Revenue. This financial statement is not intended to present either financial results of operations or financial position in conformity with generally accepted accounting principles.

Basis Of Accounting

The financial statement was prepared on the cash basis of accounting. Under this method, revenues were recognized when received and expenditures were recognized when paid.

Audit Requirement

The financial presentation has been prepared in accordance with Title 72 P.S. Section 401 (b) of *The Fiscal Code*, which requires the Department of the Auditor General to determine whether all money collected on behalf of the Commonwealth has been remitted properly and to provide the Department of Revenue with a report to enable them to settle an account covering any delinquency. A statement of assets and liabilities was not a required part of the financial presentation because of the limited reporting scope by the Clerk of the Court of Common Pleas. Therefore, a statement of assets and liabilities was not audited and is not a part of this report.

2. Receipts

Receipts are comprised of fines, costs, fees, and surcharges collected on behalf of the Department of Revenue and other state agencies. These fines, costs, fees, and surcharges represent collections made on summary and criminal cases filed with the Clerk of The Court of Common Pleas' Office.

CLERK OF THE COURT OF COMMON PLEAS
SCHUYLKILL COUNTY
NOTES TO THE FINANCIAL STATEMENT
FOR THE PERIOD
JANUARY 1, 2002 TO JANUARY 20, 2005

3. Disbursements

Total disbursements are comprised as follows:

Checks issued to:

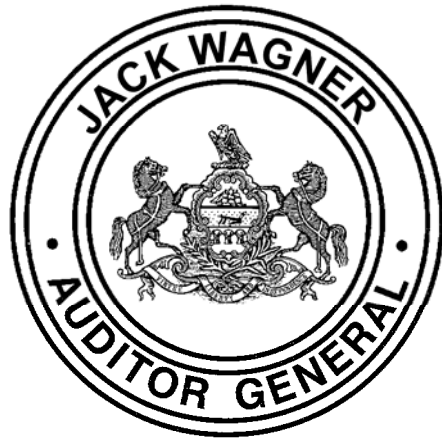
Department of Revenue	\$ 1,275,223
State Police	2,692
Department of Public Welfare	1,746
Office of Attorney General	2,337
Department of Transportation	<u>9,657</u>
Total	<u>\$ 1,291,655</u>

4. Balance Due Commonwealth (County) For The Period January 1, 2002 To January 20, 2005

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 Audit Period

Stephen M. Lukach, Jr. served as the Clerk of The Court of Common Pleas for the period January 1, 2002 to January 20, 2005.



Report On Compliance And On
Internal Control Over Financial Reporting

The Honorable Gregory C. Fajt
Secretary
Department of Revenue
Harrisburg, PA 17128

We have audited the statement of receipts and disbursements – cash basis of the Clerk of The Court of Common Pleas, Schuylkill County, Pennsylvania (County Officer), for the period January 1, 2002 to January 20, 2005, and have issued our report thereon dated December 21, 2005. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether the County Officer’s financial statement is free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*.

However, our tests disclosed the following immaterial instance of noncompliance:

- Inadequate Procedures Utilized In Assessing Costs And Fees.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the County Officer’s internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statement and not to provide assurance on the internal control over financial reporting. However, we noted certain matters involving the internal control over

Report On Compliance And On
Internal Control Over Financial Reporting (Continued)

financial reporting and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect the County Officer's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statement. The reportable conditions described in the findings are as follows:

- Inadequate Internal Controls Over The Bank Account.
- Unmonitored Data Changes.

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statement being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, of the reportable conditions described above, we consider the first bulleted item to be a material weakness.

We are concerned in light of the County Officer's failure to correct a previously reported audit finding. The County Officer should strive to implement the recommendations and corrective actions noted in this audit report. We noted several significant weaknesses in the internal controls over the bank account that need corrective action. These significant deficiencies increase the potential for funds to be lost, stolen, or misappropriated.

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 21, 2005

JACK WAGNER
Auditor General

CLERK OF THE COURT OF COMMON PLEAS
SCHUYLKILL COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2002 TO JANUARY 20, 2005

Finding No. 1 - Inadequate Procedures Utilized In Assessing Costs And Fees

Our audit disclosed that the Clerk of the Court of Common Pleas (Clerk) did not correctly assess certain costs and fees as mandated by law. Of 60 cases tested, we noted the following discrepancies:

- There were 20 cases in which an incorrect amount was assessed for Judicial Computer System/Access to Justice (JCS/ATJ) fees. JCS/ATJ fees were assessed at \$1.50 for misdemeanors and \$5.00 for felonies, and not \$10.00 as mandated by law beginning for cases filed on November 1, 2002.
- There were 10 cases in which Substance Abuse Education (SAE) costs were not assessed correctly. SAE costs are to be split 50/50 between the Commonwealth and Schuylkill County. In all ten cases where SAE costs were assessed, 100% of the assessment was to the Commonwealth.
- Beginning September of 2002, Crime Commission/Victim Witness Services (CCC) costs were overassessed by \$5.00 per case and Crime Victims Compensation (CVC) costs were underassessed by \$5.00 per case. The total due the Commonwealth remains the same; however, the amounts assessed and distributed were misclassified.

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

- Effective November 1, 2002, 42 Pa. C.S.A. § 3733 authorized the collection of \$10.00 for JCS/ATJ fees. Prior to this date, fees were assessed \$1.50 for misdemeanors and \$5.00 for felonies. The fee is not assessed on cases where the defendant enters a diversionary program.
- Title 18 § 7508 authorizes the collection of \$100.00 for SAE fees for 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 \$200.00 cost.
- Title 18 P.S. § 11.1101 authorizes the collection of \$15.00 for CCC. Effective December 28, 2000, the cost was increased from \$15.00 to \$25.00.

CLERK OF THE COURT OF COMMON PLEAS
SCHUYLKILL COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2002 TO JANUARY 20, 2005

Finding No. 1 - Inadequate Procedures Utilized In Assessing Costs And Fees (Continued)

- Title 18 P.S. § 11.1101 authorizes the collection of a \$15.00 for CVC. Effective August 27, 2002, the cost was increased from \$15.00 to \$35.00.

The Clerk is responsible for assessing costs and fees as mandated by law. Failure to correctly assess costs and fees could result in a loss of revenue to the Commonwealth.

We believe this condition existed because the Clerk was not aware or up-to-date on laws and regulations regarding the proper assessment of Commonwealth costs and fees.

Recommendation

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

Auditee Response

Clerk of the Court of Common Pleas responded as follows:

In regard to Finding # 1, which is inadequate procedures in regard to fines, costs, and fees and surcharges, the new CPCMS System now correctly assesses all fines, costs, and fees based on the charges that are recorded in the automated system.

CLERK OF THE COURT OF COMMON PLEAS
SCHUYLKILL COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2002 TO JANUARY 20, 2005

Finding No. 2 - Inadequate Internal Controls Over The Bank Account

Our review of the accounting records for the Clerk of the Court of Common Pleas (Clerk) disclosed the following deficiencies:

- Bank reconciliations were not prepared accurately and timely.
- There was no adequate accountability over undisbursed funds.
 - There was a cash shortage of \$3,863.15 in the Corporate Checking account.
 - There was an unidentified cash overage of \$14,503.18 in the Municipal Investment account.
- As of January 20, 2005, there were 2,379 long outstanding checks dating back to 1987, totaling \$69,636.89.

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

A good system of internal controls ensures that:

- Bank reconciliations are prepared accurately and as of the last day of the month as soon as the bank statement is received.
- The ending adjusted bank balance is reconciled with liabilities on a monthly basis and any discrepancies are immediately investigated and resolved. Since the bank accounts of the Clerk are essentially escrow accounts on behalf of the Commonwealth, county, and other participating entities, all available cash on hand should equal unpaid obligations.
- Stale checks are followed up on a timely manner. Additionally, outstanding checks should be reviewed monthly to determine if there are any long outstanding checks. The office should attempt to contact the payee when the check appears likely to remain uncashed. If the attempt is unsuccessful after 90 days, the amount of the check should then be removed from the outstanding checklist, added back to the checkbook balance, and subsequently held in escrow for unclaimed escheatable funds.

CLERK OF THE COURT OF COMMON PLEAS
SCHUYLKILL COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2002 TO JANUARY 20, 2005

Finding No. 2 - Inadequate Internal Controls Over The Bank Account (Continued)

Without a good system of internal controls over the bank account, the potential is increased that funds could be lost, stolen, or misappropriated.

The condition of long outstanding checks was reported in our prior audit report dated January 1, 1998 to December 31, 2001.

Recommendation

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

Auditee Response

Clerk of the Court of Common Pleas responded as follows:

With the advent of the Common Pleas Case Management System mandated by the State, we now have implemented changes to the internal control of the bank account. The bank reconciliation can now be prepared on the last day of the month since we have now gone to a single deposit/checking account, instead of the dual account which had previously been in place.

The cash shortage of \$3,863.15 in the deposit account is the direct result of funds being distributed by the automated system only to have the payment checks given to us by the defendants returned by the bank for insufficient funds. At that point, attempts to correct the money have failed because the defendants can not be found.

The cash overage of \$14,503.18 is a result of a change in the rules which allows for 50% of each payment made by the defendant to go to restitution. Since some of these cases date back to 1988, the victim can not be found, the checks are returned and the overage remains in the account. With the advent of the CPCMS system, an attempt will be made to locate these individuals. Otherwise, money will be escheated at the end of the five (5) year period.

CLERK OF THE COURT OF COMMON PLEAS
SCHUYLKILL COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2002 TO JANUARY 20, 2005

Finding No. 3 - Unmonitored Data Changes

Schuykill County uses their in-house Information Technology Department (Department) as an Application Service Provider (ASP) to account for transactions in several offices, including the Clerk of the Court of Common Pleas (Clerk). The Clerk initiates and approves transactions via in-person or telephone conversation. The Department is responsible for processing all of the transactions and producing the necessary reports and accounting entries to record the receipt and distribution of funds and to prepare the financial statements.

During discussions with Department personnel, we learned that they have the ability to make changes to the County's data.

We noted the following weaknesses:

- No monitoring reports are provided to the Clerk.
- The computer system does not prompt the user to change passwords.
- Changes are not requested in writing.
- Auditee has not consulted legal council regarding any liability concerning loss of data or system functionality that may be caused by the Department's actions.

Effective security policy and practice requires the Clerk's approval and monitoring of any computer data changes made by the Department, particularly because of the Department's access to critical applications. Furthermore, to ensure confidentiality, passwords should be changed periodically and not exchanged between employees.

According to the Computer Emergency Response Team (CERT) of Carnegie Mellon University, inadequate security policies and practices can result in undetected intrusions or security violations, lack of data integrity, and loss of privacy.

CLERK OF THE COURT OF COMMON PLEAS
SCHUYLKILL COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2002 TO JANUARY 20, 2005

Finding No. 3 - Unmonitored Data Changes (Continued)

Recommendations

We recommend the following:

- The County should require the IT Department to provide monitoring reports which include the date, time, reason for change(s), change(s) made, and who made the change(s) when changes to the County's data are made outside of normal processing. The County should routinely review these reports to determine that access was appropriate and that data was not improperly altered.
- County Offices' users should be required to periodically change their passwords.
- The Clerk of Courts should require the IT Department to obtain written authorization from the Clerk of Courts before making any changes to the system.
- The Clerk of Courts officials should consult legal counsel about how to protect the County's interests in the event that errors or fraud occur as a result of employees accessing the County's data.

Auditee Response

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

The Clerk of Courts has long been concerned about this since changes could be made by the IT Department. However, under the CPCMS System, we no longer have any transactions or anything to do with the IT Department of the County. The Clerk of Courts Office is still concerned because we have discovered that the Administrative Office of Pennsylvania could do this and sometimes does make unmonitored changes to data and we are not notified of these changes.

CLERK OF THE COURT OF COMMON PLEAS
SCHUYLKILL COUNTY
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JANUARY 1, 2002 TO JANUARY 20, 2005

Finding No. 3 - Unmonitored Data Changes (Continued)

Auditor's Conclusion

The Administrative Office of the Pennsylvania Courts (AOPC) maintains monitoring reports and remedy calls (remedy is the CPCMS Call Tracking System, each call is logged with a number) that are created when there are changes to user data. Changes to user data are done at the request of the county to resolve an issue with migration, assessment, or mappings, for example.

Therefore, there are no unmonitored changes to data. All changes are monitored. Further, changes are only made at the request of the County.

CLERK OF THE COURT OF COMMON PLEAS
SCHUYLKILL COUNTY
COMMENT
FOR THE PERIOD
JANUARY 1, 2002 TO JANUARY 20, 2005

Comment – Compliance With Prior Audit Recommendations

During our prior audit, we recommended:

- That the office transmit the Commonwealth share of revenue timely.
- That the office properly reconcile non-sufficient funds checks received from defendants to the reimbursements and any unpaid checks be listed as liabilities.
- That the office initiate procedures to ensure that all receipts are serially issued, properly maintained and accounted for.
- That the office properly remit restitution due to the Bureau of Victims' Services.

During our current audit, we noted that the office complied with our recommendations.

CLERK OF THE COURT OF COMMON PLEAS
SCHUYLKILL COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2002 TO JANUARY 20, 2005

This report was initially distributed to:

The Honorable Gregory C. Fajt
Secretary
Department of Revenue

Mr. Richard Dash
Chief Officer of Fiscal Services
Pennsylvania Board of Probation and Parole
1101 South Front Street
Harrisburg, PA 17104-2520

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

Clerk of The Court of Common Pleas
Schuylkill County
Schuylkill County Courthouse
Schuylkill, PA 17901

The Honorable Stephen M. Lukach, Jr.	Clerk of The Court of Common Pleas
The Honorable Frank J. Staudenmeier	Chairman of the Board
The Honorable Gary L. Hornberger	Controller

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. If you have any questions regarding this report or any other matter, you may contact the Department of the Auditor General by accessing our website at www.auditorgen.state.pa.us.