

DISTRICT COURT 10-2-08
WESTMORELAND COUNTY
EXAMINATION REPORT
FOR THE PERIOD
JANUARY 1, 2007 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 Facsimile Signature Stamp.....	7
Finding No. 2 - Lack Of Internal Controls Over Third Party Collections.....	8
Report Distribution	11



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

**JACK WAGNER
AUDITOR GENERAL**

Independent Auditor's Report

Mr. Dan Meuser
Acting Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We have examined the accompanying statement of receipts and disbursements (Statement) of District Court 10-2-08, Westmoreland County, Pennsylvania (District Court), for the period January 1, 2007 to December 31, 2009, 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*.

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, 2009, in conformity with the criteria set forth in Note 1.

Independent Auditor's Report (Continued)

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:

- Inadequate Internal Controls Over Facsimile Signature Stamp.
- Lack Of Internal Controls Over Third Party Collections.

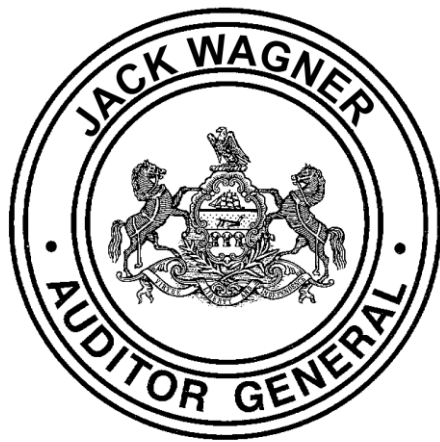
A material weakness is a significant deficiency or combination of significant deficiencies that results in more than a remote likelihood that a material misstatement of the Statement will not be prevented or detected by the District Court's internal control. Our consideration of the internal control over reporting on the Statement would not necessarily disclose all matters in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. We consider all the significant deficiencies described above to be material weaknesses.

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.

July 1, 2010

JACK WAGNER
Auditor General



DISTRICT COURT 10-2-08
WESTMORELAND COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2009

Receipts:

Department of Transportation		
Title 75 Fines	\$	212,088
Overweight Fines		2,250
Commercial Driver Fines		500
Littering Law Fines		750
Child Restraint Fines		275
Department of Revenue Court Costs		146,050
Crime Victims' Compensation Bureau Costs		17,377
Crime Commission Costs/Victim Witness Services Costs		19,827
Domestic Violence Costs		5,869
Department of Agriculture Fines		3,690
Emergency Medical Service Fines		40,393
CAT/MCARE Fund Surcharges		119,140
Judicial Computer System Fees		65,029
Access to Justice Fees		16,244
Criminal Justice Enhancement Account Fees		59
Judicial Computer Project Surcharges		267
Constable Service Surcharges		10,545
Miscellaneous State Fines		10,235
		<hr/>
Total receipts (Note 2)	\$	670,588
Disbursements to Commonwealth (Note 3)		<hr/> (670,588)
Balance due Commonwealth (District Court) per settled reports (Note 4)		-
Examination adjustments		<hr/> -
Adjusted balance due Commonwealth (District Court) for the period January 1, 2007 to December 31, 2009	\$	<hr/> <hr/> -

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

DISTRICT COURT 10-2-08
WESTMORELAND COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2007 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 traffic, non-traffic, civil, and criminal cases filed with the District Court.

3. Disbursements

Total disbursements are comprised as follows:

District Court checks issued to:

Department of Revenue	\$ <u>670,588</u>
-----------------------	-------------------

4. Balance Due Commonwealth (District Court) For The Period January 1, 2007 To December 31, 2009

This balance reflects the summary of monthly transmittal reports as settled by the Department of Revenue.

5. Magisterial District Judge Serving During Examination Period

Michael R. Mahady served at District Court 10-2-08 for the period January 1, 2007 to December 31, 2009.

DISTRICT COURT 10-2-08
WESTMORELAND COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2009

Finding No. 1 - Inadequate Internal Controls Over Facsimile Signature Stamp

Our examination of the district court disclosed that the Magisterial District Judge's facsimile signature stamp was not secure but was kept in the desks of all four secretaries where it was accessible to all employees.

Good internal controls ensure that effective measures are implemented to protect against the inappropriate use of the Magisterial District Judge's signature. The facsimile stamp should be stored in a secured location and only the Magisterial District Judge should have access to it.

This condition existed because the district court failed to establish and implement an adequate system of internal controls over access to and use of the facsimile signature stamp.

Without a good system of internal control over access and use of the facsimile signature stamp, the potential is increased that documents could be fraudulently authorized and that funds could be misappropriated.

Recommendation

We recommend that the district court implement good internal controls over access and use of the facsimile signature stamp by restricting access and use of the facsimile signature stamp to the Magisterial District Judge only.

Management's Response

The Magisterial District Judge responded as follows:

The facsimile stamp was used in only one application, to complete a citation where the defendant had submitted a guilty plea in writing. The auditor has made this a finding because this is not a document listed by the AOPC which allows the use of a facsimile stamp. It is also indicated by the AOPC that the signature is not necessary on a citation where a written guilty plea has been received. Therefore, the use of the stamp is a moot issue. We will not use the facsimile stamp in the future.

Auditor's Conclusion

Having an unsecured facsimile stamp is a significant internal control weakness. This condition increases the possibility of documents being fraudulently authorized and funds being misappropriated. In our next examination, we will determine if the facsimile signature stamp has been secured or discontinued.

DISTRICT COURT 10-2-08
WESTMORELAND COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2009

Finding No. 2 - Lack Of Internal Controls Over Third Party Collections

During our review of warrant procedures at the district court, we noted that the constables, when serving warrants issued by the Magisterial District Judge, were collecting fines and costs on behalf of the court. Our examination disclosed several significant internal control weaknesses as follows:

- In 5 of 12 instances, collections of fines, costs, and fees made by a constable were deposited into the constable's bank account and were subsequently remitted to the court.
- In 4 of 12 instances, constable collections were not remitted timely to the District Court. The time lapse from the date of collection to the receipt date by the District Court ranged from 4 days to 14 days.

Good internal accounting controls and the *Magisterial District Judge Automated Office Clerical Procedures Manual* (Manual), which establishes the uniform written internal control policies and procedures for all district courts, require that the court maintain complete accountability over all citations and subsequent collections. The court should not delegate these functions to constables or any other independent contractor or third party.

Official receipts should be issued by the constables upon the collection of fines and costs and copies of these receipts, signed by the defendant, should accompany payments turned over to the court. All checks and money orders collected by the constables should be payable to the court and should be remitted to the court immediately upon collection.

Magisterial District Judges have the power to choose constables to perform services on behalf of the court. Because constables are independent contractors the court has the authority to dictate minimum standards of satisfactory performance, so long as said standards are not inconsistent with pertinent statutes and Rules of Court. Such standards include the requirement that constables or other third parties who collect money on behalf of district courts prepare and maintain the documentation which is necessary to maintain effective internal controls as well as to establish an adequate examination trail with respect to said funds.

Without the internal controls listed above, the risk of funds being lost or misappropriated increases significantly.

Adherence to good internal accounting controls and the uniform internal control policies and procedures, as set forth in the Manual, would have ensured that there were adequate internal controls over third party collections.

DISTRICT COURT 10-2-08
WESTMORELAND COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2009

Finding No. 2 - Lack Of Internal Controls Over Third Party Collections (Continued)

Recommendations

We recommend that the district court request that the constables it engages for service of process or warrants complete the back of warrants in their entirety which serve as official receipts, and submit the warrants, along with collections intact, immediately to the district court.

Further, we recommend that the court consider discontinuing its use of constables who refuse to voluntarily comply with the court's request. The court should account for all collections, including constable fees, and document its attempts to ensure that unserved warrants are returned when recalled, in accordance with the Manual.

Management's Response

The Magisterial District Judge responded as follows:

The constable is empowered to take payment in full from defendants on certain warrants. He is paid by both cash and check. Because the constable usually submits numerous warrants to the court at any one time, it is impossible for the staff to stop their current activities and process the warrant payments. There is no form or receipt that is available to issue to the constable at the time he submits the warrants and we cannot have cash accumulating in the office while these payments are waiting to be processed. As a result, I have instructed the constable to submit all payment by check from his account so that there is no discrepancy as to the amount he has submitted to the court. In addition, all collections made by the constable are returned to the court within 24 hours of collection. Although the AOPC does not want constables to deposit money in their personal account, they authorize counties to hire collection agencies to collect fines for the courts and these collection agencies deposit the fines in their accounts and submit checks to the AOPC on a monthly basis. The monies collected by these agencies amount to thousands of dollars and yet they have no problem with the collection agencies holding money for 30 days before payment. The payment made by the constable is submitted within 24 hours of collection. Based on practices currently being approved by the AOPC regarding collection agencies, there is no basis for the finding. In addition, I will continue to authorize the current payment method by the constable.

DISTRICT COURT 10-2-08
WESTMORELAND COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2009

Finding No. 2 - Lack Of Internal Controls Over Third Party Collections (Continued)

Auditor's Conclusion

We are aware of the Magisterial District Judge's point of view on the collection procedures he has implemented for the constables. However, these procedures are not in compliance with the Manual and do not adhere to a system of good internal controls. Additionally, as stated above, our tests showed that there were collections not submitted to the court within 24 hours. Some collections had time lapses of four days to ten days before they were received by the court. The court's current policies for constable collections should be discontinued immediately and our recommendations noted above should be implemented.

DISTRICT COURT 10-2-08
WESTMORELAND COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2007 TO DECEMBER 31, 2009

This report was initially distributed to:

Mr. Dan Meuser
Acting Secretary
Pennsylvania Department of Revenue

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

The Honorable Michael R. Mahady	Magisterial District Judge
The Honorable Carmen Pedicone	Controller
The Honorable Tom Balya	Chairman of the Board of Commissioners
Paul S. Kuntz, Esquire	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.