



DISTRICT COURT 16-3-06

SOMERSET COUNTY

EXAMINATION REPORT

FOR THE PERIOD

JANUARY 1, 2005 TO DECEMBER 31, 2007

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Independent Auditor's Report

The Honorable Steven H. Stetler
Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We have examined the accompanying statement of receipts and disbursements (Statement) of District Court 16-3-06, Somerset County, Pennsylvania (District Court), for the period January 1, 2005 to December 31, 2007, 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, 2007, 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 deficiency described in the finding below to be a significant deficiency in internal control over reporting on the Statement:

- Inadequate Arrest Warrant And DL-38 Procedures.

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, we believe that the significant deficiency described above is not 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*.

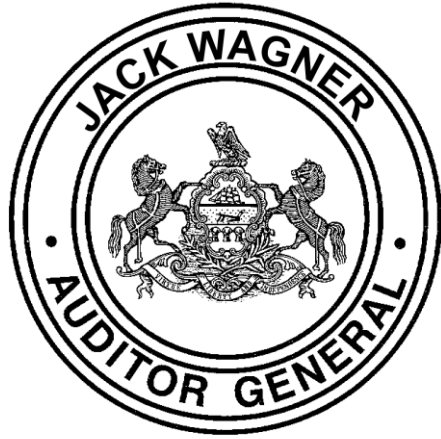
Independent Auditor's Report (Continued)

We are concerned in light of the District Court's failure to correct a previously reported finding regarding inadequate arrest warrant and DL-38 procedures. These significant deficiencies increase the risk for funds to be lost or misappropriated and in uncollected fines and unpunished offenders. The District Court 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 District Court and is not intended to be and should not be used by anyone other than these specified parties.

March 10, 2009

JACK WAGNER
Auditor General



DISTRICT COURT 16-3-06
SOMERSET COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2005 TO DECEMBER 31, 2007

Receipts:

Department of Transportation			
Title 75 Fines	\$	75,006	
Motor Carrier Road Tax Fines		150	
Overweight Fines		8,001	
Littering Law Fines		163	
Child Restraint Fines		304	
Department of Revenue Court Costs		47,987	
Crime Victims' Compensation Bureau Costs		13,867	
Crime Commission Costs/Victim Witness Services Costs		10,202	
Department of Public Welfare			
Domestic Violence Costs		3,421	
Attend Care Fines		48	
Department of Conservation and Natural Resources Fines		25	
Department of Agriculture Fines		5,284	
Fish and Boat Commission Fines		3,077	
Game Commission Fines		38,943	
Emergency Medical Service Fines		22,154	
CAT/MCARE Fund Surcharges		67,286	
Judicial Computer System Fees		27,702	
Access to Justice Fees		6,408	
Constable Service Surcharges		988	
Miscellaneous State Fines		2,401	
Total receipts (Note 2)	\$	333,417	
Disbursements to Commonwealth (Note 3)		<u>(333,417)</u>	
Balance due Commonwealth (District Court) per settled reports (Note 4)		-	
Examination adjustments		<u>-</u>	
Adjusted balance due Commonwealth (District Court) for the period January 1, 2005 to December 31, 2007	\$	<u><u>-</u></u>	

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

DISTRICT COURT 16-3-06
SOMERSET COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2005 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 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	\$ 333,417
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4. Balance Due Commonwealth (District Court) For The Period January 1, 2005 To December 31, 2007

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

5. Magisterial District Judge Serving During Examination Period

Douglas McCall Bell served at District Court 16-3-06 for the period January 1, 2005 to December 31, 2007.

DISTRICT COURT 16-3-06
SOMERSET COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2005 TO DECEMBER 31, 2007

Finding - 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 sampled 29 instances in which a warrant was required to be issued. Our testing disclosed that 11 were not issued timely and 3 were not issued at all. The time of issuance ranged from 129 days to 592 days.

In addition, of 24 warrants required to be returned or recalled, 3 were not returned or recalled, and 6 were not returned timely. The time of issuance to the time of return ranged from 190 days to 770 days.

Furthermore, we sampled three instances in which a DL-38 was required to be issued. Our testing disclosed that three were not issued timely. The time of issuance ranged from 140 days to 398 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.

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.

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SOMERSET COUNTY
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FOR THE PERIOD
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Finding - Inadequate Arrest Warrant And DL-38 Procedures (Continued)

- 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).

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.

DISTRICT COURT 16-3-06
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Finding - Inadequate Arrest Warrant And DL-38 Procedures (Continued)

The failure to follow warrant and DL-38 procedures could result in uncollected fines and unpunished offenders. Additionally, the risk is increased for funds to 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 the prior audit for the period ending December 31, 2004.

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 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:

Inadequate Arrest Warrant and DL38 Procedures concerns an administrative policy, procedure or other matter which does not specifically relate to our office accounts and per MDJ Rule 17(B) (8) is solely within the responsibility of our president judge to whose attention this matter is referred, per the attached February 15, 2008 memo of John M. Cascio, P.J., a copy of which is attached hereto.

See below paragraph for contents of attachment.

I spoke today with Judge Cannoni who related that the auditor assigned to his office has been questioning his office manager and him regarding dismissal rates in criminal cases in his office. While I intend to provide a formal written directive to all of you next week, if any of you are asked by an auditor any question about dismissal rates or any administrative policy, procedure or other matter which does not specifically relate to your office accounts, please advise the auditor that I have instructed you not to respond. Procedural audit matters are the responsibility of the president judge and fiscal audits are "limited in scope to the accounts of the magisterial district judge." See MDJ Rule 17 (B) (8).

DISTRICT COURT 16-3-06
SOMERSET COUNTY
FINDING AND RECOMMENDATIONS
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Finding - Inadequate Arrest Warrant And DL-38 Procedures (Continued)

Auditors Conclusion

In response to the Magisterial District Judge's response regarding arrest warrant and DL-38 procedures, these procedures relate to the enforcement of the collection of monies relating to the Magisterial District Judge's account.

As to the Magisterial District Judge's response regarding dismissed cases, we recognize that the dismissal of cases is at the discretion of the Magisterial District Judge. However, as part of our fraud detection procedures as required by auditing standards, we examine these cases to determine if they were dismissed by the Magisterial District Judge.

The failure to establish and implement these procedures increases the risk for funds to be lost or misappropriated.

DISTRICT COURT 16-3-06
SOMERSET COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2005 TO DECEMBER 31, 2007

This report was initially distributed to:

The Honorable Stephen H. Stetler
Secretary
Pennsylvania Department of Revenue

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

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Somerset County
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P. O. Box 203
Meyersdale, PA 15552

The Honorable Douglas McCall Bell

Magisterial District Judge

The Honorable James C. Marker

Chairman of the Board of Commissioners

Mr. Brad Cober

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.