



DISTRICT COURT 23-1-04

BERKS COUNTY

EXAMINATION REPORT

FOR THE PERIOD

JANUARY 1, 2004 TO DECEMBER 31, 2006

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Independent Auditor's Report

Mr. Stephen H. Stetler
Acting Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We have examined the accompanying statement of receipts and disbursements (Statement) of District Court 23-1-04, Berks County, Pennsylvania (District Court), for the period January 1, 2004 to December 31, 2006, 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*.

Independent Auditor's Report (Continued)

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, 2006, 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 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:

- Required Downtime Manual Receipt Procedures Were Not Always Followed.
- Inadequate Arrest Warrant 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, of the significant deficiencies described above, we consider the first bulleted deficiency to be a material weakness.

Independent Auditor's Report (Continued)

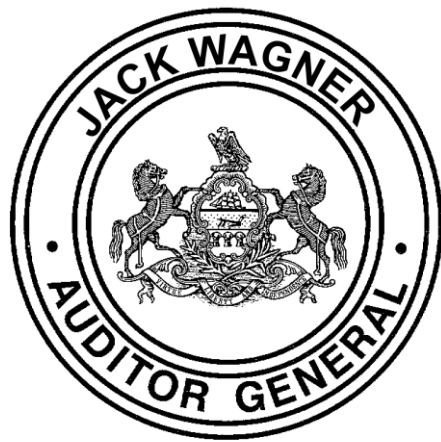
The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We are concerned in light of the District Court's failure to correct a previously reported finding regarding inadequate arrest warrant procedures. Additionally, during our current examination, we noted a significant weakness in the internal controls over computer downtime manual receipts that need corrective action. These significant deficiencies increase the risk for funds to be lost, stolen, 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.

December 3, 2008

JACK WAGNER
Auditor General



DISTRICT COURT 23-1-04
 BERKS COUNTY
 STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2004 TO DECEMBER 31, 2006

Receipts:

Department of Transportation		
Title 75 Fines	\$ 79,542	
Littering Law Fines	450	
Child Restraint Fines	720	
Department of Revenue Court Costs	690,326	
Crime Victims' Compensation Bureau Costs	10,847	
Crime Commission Costs/Victim Witness Services Costs	8,165	
Department of Public Welfare		
Domestic Violence Costs	2,967	
Attend Care Fines	24,538	
Emergency Medical Service Fines	20,116	
CAT/MCARE Fund Surcharges	60,418	
Judicial Computer System Fees	394,394	
Access to Justice Fees	73,401	
Constable Service Surcharges	<u>155,837</u>	
 Total receipts (Note 2)		 \$ 1,521,721
 Disbursements to Commonwealth (Note 3)		 <u>(1,521,819)</u>
 Balance due Commonwealth (District Court) per settled reports (Note 4)		 (98)
 Examination adjustments		 <u>-</u>
 Adjusted balance due Commonwealth (District Court) for the period January 1, 2004 to December 31, 2006		 <u><u>\$ (98)</u></u>

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

DISTRICT COURT 23-1-04
BERKS COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2004 TO DECEMBER 31, 2006

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>1,521,819</u>
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4. Balance Due Commonwealth (District Court) For The Period January 1, 2004 To December 31, 2006

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

DISTRICT COURT 23-1-04
 BERKS COUNTY
 NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2004 TO DECEMBER 31, 2006

5. Reconciliation Of Settled Reports

The following presents a reconciliation of monthly reports settled by the Department of Revenue for the period January 1, 2004 to December 31, 2006:

Date of Summary of Collections Report	Balance Due Settled Reports Dept. of Revenue (District Court)	Payment Credited for a Prior Month	Payment Not Credited for Current Month	Adjustments	Adjusted Balance Due Dept. of Revenue (District Court)
2004					
January	\$ -	\$ -	\$ -	\$ -	\$ -
February	-	-	-	-	-
March	-	-	-	-	-
April	-	-	-	-	-
May	-	-	-	-	-
June	(142)	-	-	-	(142)
July	142	-	-	-	142
August	(77)	-	-	-	(77)
September	49	-	-	-	49
October	(45)	-	-	-	(45)
November	(85)	-	-	-	(85)
December	70	-	-	-	70
2005					
January	(4)	-	-	-	(4)
February	(112)	-	-	-	(112)
March	77	-	-	-	77
April	46	-	-	-	46
May	15	-	-	-	15
June	(143)	-	-	-	(143)
July	134	-	-	-	134
August	33	-	-	-	33
September	(57)	-	-	-	(57)
October	(378)	-	-	-	(378)
November	366	-	-	-	366
December	72	-	-	-	72

DISTRICT COURT 23-1-04
 BERKS COUNTY
 NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2004 TO DECEMBER 31, 2006

5. Reconciliation Of Settled Reports (Continued)

Date of Summary of Collections Report	Balance Due Settled Reports Dept. of Revenue (District Court)	Payment Credited for a Prior Month	Payment Not Credited for Current Month	Adjustments	Adjusted Balance Due Dept. of Revenue (District Court)
2006					
January	15	-	-	-	15
February	(118)	-	-	-	(118)
March	4	-	-	-	4
April	(123)	-	-	-	(123)
May	75	-	-	-	75
June	69	-	-	-	69
July	39	-	-	-	39
August	(76)	-	-	-	(76)
September	46	-	-	-	46
October	71	-	-	-	71
November	(30)	-	-	-	(30)
December	(31)	-	-	-	(31)
Balance due Department of Revenue (District Court) per settled reports					(98)
Examination adjustments					-
Adjusted balance due Department of Revenue (District Court) for the period January 1, 2004 to December 31, 2006					\$ (98)

6. Magisterial District Judge Serving During Examination Period

Thomas H. Xavios served at District Court 23-1-04 for the period January 1, 2004 to December 31, 2006.

DISTRICT COURT 23-1-04
BERKS COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2004 TO DECEMBER 31, 2006

Finding No. 1 - Required Computer Downtime Manual Receipt Procedures Were Not Always Followed

The Administrative Office of Pennsylvania Courts' (AOPC) policies require computer downtime manual receipts to be issued in the event of a temporary power loss to the district court's computer system. When the computer system is operating again, the computer downtime manual receipt is replaced by an official computer-generated receipt and included in the daily receipts. When the AOPC's policies are not followed, the risk that funds received by the District Court could be lost, stolen, or misappropriated increases.

Our examination disclosed that required computer downtime manual receipt procedures were not always followed. The district court was issuing downtime manual receipts for payments received at the court after the books were closed out for the day. The court issued downtime manual receipts even though the district court's computer system was operational. This resulted in the issuance of over 4,000 manual receipts between January 1, 2004 and December 31, 2006 unnecessarily.

The *Magisterial District Judge Automated Office Clerical Procedures Manual* (Manual) establishes the uniform written internal control policies and procedures for all district courts. The Manual requires that downtime manual receipts be issued in the event of a temporary power loss to the computer system. The Manual also states that the day's work should be cut off as late as possible in order to include as many receipts as possible and still get the deposit to the bank. Transactions after the cutoff hour will be properly dated but included in the next day's work; however, the deposit should be made before you leave for the day.

This condition existed because the district court failed to establish and implement an adequate system of internal controls over computer downtime manual receipts.

Good internal accounting controls require that manual receipts are issued in an efficient manner.

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

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 manual receipts.

Recommendation

We recommend that the district court properly use manual receipts as required by good internal accounting controls and the Manual.

DISTRICT COURT 23-1-04
BERKS COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2004 TO DECEMBER 31, 2006

Finding No. 1 - Required Computer Downtime Manual Receipt Procedures Were Not Always Followed (Continued)

Management's Response

The Magisterial District Judge responded as follows:

My response to the finding of “computer downtime receipts were issued in excessive amounts” is that the manual receipts are high because:

- When our computer system was upgraded we had a lot of problems with the system going down.
- We take money until the very end of the day unlike other courts that stop taking money an hour before closing.

It is my belief that the defendants would not return if we turned them away and we could potentially lose that money, which in 2008 was approximately \$50,000.

Auditor's Conclusion

We recognize that the court is trying to maximize collections by issuing downtime manual receipts after the books are closed out for the day. However, by adhering to the Manual guidelines, as set forth above, the court can eliminate the excessive issuance of downtime manual receipts. As long as the funds collected after the books are closed out are placed in a hold bag and the bag is brought to the bank, which the court stated is their current procedure, there is sufficient control over funds.

DISTRICT COURT 23-1-04
BERKS COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
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Finding No. 2 - Inadequate Arrest Warrant Procedures

Warrants 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.

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 36 instances in which a warrant was required to be issued. Our testing disclosed that eight were not issued timely and one was not issued at all. The time of issuance ranged from 76 days to 508 days.

In addition, of 35 warrants required to be returned or recalled, 8 were not returned or recalled, and 9 were not returned timely. The time of issuance to the time of return ranged from 247 days to 797 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.
- 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.

DISTRICT COURT 23-1-04
BERKS COUNTY
FINDINGS AND RECOMMENDATIONS
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JANUARY 1, 2004 TO DECEMBER 31, 2006

Finding No. 2 - Inadequate Arrest Warrant Procedures (Continued)

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.

The failure to follow warrant procedures when required increases the risk for funds to be lost, stolen, or misappropriated, and in uncollected fines and unpunished offenders.

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.

This finding was cited in the prior audit for the period ending December 31, 2003.

Recommendations

We again recommend that the district court review the tickler reports for warrants daily and take appropriate action as required by the Manual. Additionally, we again 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

No formal response was offered at this time.

DISTRICT COURT 23-1-04
BERKS COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2004 TO DECEMBER 31, 2006

This report was initially distributed to:

Mr. Stephen H. Stetler
Acting Secretary
Pennsylvania Department of Revenue

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

District Court 23-1-04
Berks County
1259 North 10th Street
Reading, PA 19604

The Honorable Thomas H. Xavios	Magisterial District Judge
The Honorable Sandy Graffius	Controller
The Honorable Mark C. Scott	Chairman of the Board of Commissioners
Ms. Faith I. Phillips	Special Courts 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.