

DOUGLAS COUNTY INTERNAL AUDIT DIVISION



**COMPLIANCE REVIEW OF DISTRESS WARRANTS
REPORT ON INTERNAL CONTROLS
FOR HAYES & ASSOCIATES
FY 2009/2010 #05**



DOUGLAS COUNTY INTERNAL AUDIT DIVISION

To: Mr. Brad Yoder, Manager, Hayes & Associates, L.L.C.

From: Ms. Carmen Harmon, Internal Audit Administrator

RE: Distress Warrant Special Report

Date: September 23, 2009

We have reviewed the Distress Warrant process in Douglas County. The period of the review was Fiscal Year 2008/2009.

The review included; examining compliance with applicable state laws, and performing other procedures we considered necessary to support report findings.

The purpose of this report is to describe the results of our testing.

Objective: Determine if the Douglas County Sheriff and the Douglas County Treasurer are meeting the statutory reporting guidelines for the Distress Warrant process.

Audit Steps:

1. Determine if the Treasurer is meeting the November 1st deadline for delivery of the distress warrants to the Sherriff. (77-1718)
2. Determine if the Sheriff is meeting the August 1st deadline for reporting the amount of uncollected distress warrants to the Board. (77-1719.01)
3. Determine if the Treasurer is meeting the October 1st deadline for reporting the distress warrants returned by the Sheriff. (77-1719.02)

Conclusion: The following report is an examination of the distress warrant process in Douglas County. It appears that all parties are meeting the deadlines for the distress warrant process as they interpret them.

Neb. Rev. Stat. § 77-1719.01 states, “Collection of taxes, personal; sheriff; report. On or before August 1 of each year, the sheriff shall report to the county board showing the total amount collected on current distress warrants and the amount remaining uncollected.” Confirmation was not received from the Douglas County Sheriff’s office to support the August 1st deadline compliance was met.

The Douglas County Sheriff’s Office’s reported the distress warrant report was hand delivered to the County Board on July 31, 2009 by one of the Sheriff’s employees. The Sheriff’s reporting has been done in this manner in the past and the Treasurer’s Office has always requested the agenda item. The Sheriff’s chain of command has been made aware of the Clerk’s request and the Sheriff’s Office will continue to report by the current procedure in place.

The Internal Audit Division would like to note that according to Neb. Rev. Stat. § 77-1719.01, the Sheriff’s office is in compliance of the August 1st by hand delivering the report dated August 1, 2009, to the Commissioner’s office on July 31, 2009, yet physical evidence of a date stamp notating the receipt of the report by the Commissioners’ office is unavailable which is non-compliant. An additional procedure can be used to easily resolve adherence to the statute which states “... shall report to the Douglas County Board of Commissioners the amount of distress warrants collected and uncollected on or before August 1 each year.” Compliance with this statute can also be made by the Sheriff requesting this item be placed on the Board of Commissioners agenda to provide the required verification of the date the report received; this availability to the County Board is by the request of Nebraska State Statute § 77-1719.01. These solutions were discussed with the Supervisor of the Records Division in the Sheriff’s office the Sheriff’s staff have noted our request for additional confirmation. The chain of command has been made aware of the request and will look into adding a step in the standard operating procedures (SOP) to address this concern.

Statutes for Distress Warrants Audit Steps

State Statute	Brief Description	Compliance Date
77-1718	Treasurer shall deliver to Sheriff distress warrants against all persons having delinquent taxes	on or before November 1
77-1719.01	Sheriff shall report to County Board amount collected and uncollected	on or before August 1
77-1719.02 ¹	Treasurer shall verify above report and make an itemized report of all uncollected amounts and reason for failure to collect	on or before October 1

At least thirty days prior to the issuance of a distress warrant, the county treasurer shall mail a notice to delinquent taxpayers that states, *"Unless payment of the delinquent tax is made within thirty days a distress warrant will be issued."*²

According to Neb. Rev. Stat. § 77-1717 through 77-1723 on, or before, October 1 of each year, the county treasurer shall issue, and deliver to the county sheriff, *distress warrants* against all persons having delinquent taxes for that year. Such distress warrants shall bear an endorsement of the sheriff showing that, (1) the taxes have been collected, (2) upon diligent search no property could be found on which to levy, or (3) the delinquent taxpayer has filed an affidavit with the sheriff that such taxpayer is unable, by reason of poverty, to pay such taxes and the sheriff shall certify that the property, if any, of the delinquent taxpayer is not worth in value the cost of advertising such property for sale.³

If a taxpayer has property on the tax roll, there should be property to levy upon. If the sheriff feels there is no property to levy upon, he or she needs to meet with the county board and county assessor to make a determination whether the personal property taxes need to be stricken from the tax rolls.

It is the Sheriff's responsibility to attempt to collect the delinquent tax by direct payment or by the seizure (levy) and sale of any assets. In those instances when the delinquent taxpayer refuses to make payment, a sworn deputy sheriff is assigned to seize and sell personal property to satisfy the delinquent tax liability.

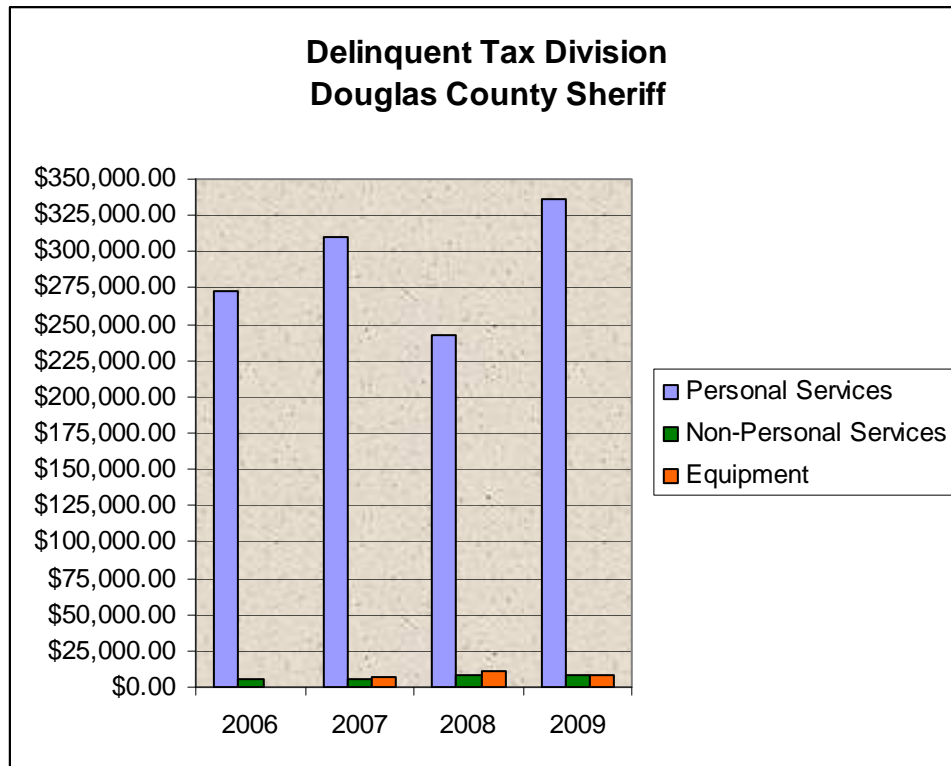
The Civil Process and Civil Proceeds Divisions of the Field Services Bureau in the Douglas County Sheriff's office are responsible for processing and serving approximately 3,000 civil and criminal writs per month. The Bureau utilizes a computerized writ processing system that allows for the individual routing, tracking, service and return of a high volume of writs with a minimal clerical staff. Unlike other sheriff's offices in Nebraska that rely on sworn deputy sheriffs to serve civil process, the Douglas County Sheriff's Office utilizes a staff of civilian, non-sworn process servers. Outstanding tax distress warrants are on file with the Douglas County Sheriff's

¹ Additional requirements govern false returns procedures for the Treasurer, Sheriff and County Board

² Neb. Rev. Stat. § 77-1718

³ Neb. Rev. Stat. § 77-1719

office. Total budget request for the Delinquent Tax Division for 2009 was 346,918.00 dollars, an increase of 35% from the previous year.⁴



On, or before, August 1 of each year the sheriff shall report to the county board showing the total amount collected on current distress warrants and the amount remaining.⁵ In any case where any distress warrant includes taxes for one year or more the sheriff may, at his or her discretion, accept partial payment and shall pay the same to the county treasurer.⁶ The sheriff is to compute and collect interest to the date of the collection on all distress warrants. The interest on distress warrants is 14%.⁷

All fees allowed for issuing distress warrants, levy, and return of the warrants shall be two dollars for issuing each warrant, one dollar for levy, and mileage at the rate provided in Neb. Rev. Stat. § 33-117. All fees, mileage, and commissions shall be taxed to the parties against whom the distress warrants run and shall be collected as the original tax.⁸

⁴ See attached spreadsheet

⁵ Neb. Rev. Stat. § 77-1719.01

⁶ Neb. Rev. Stat. § 77-1719.03

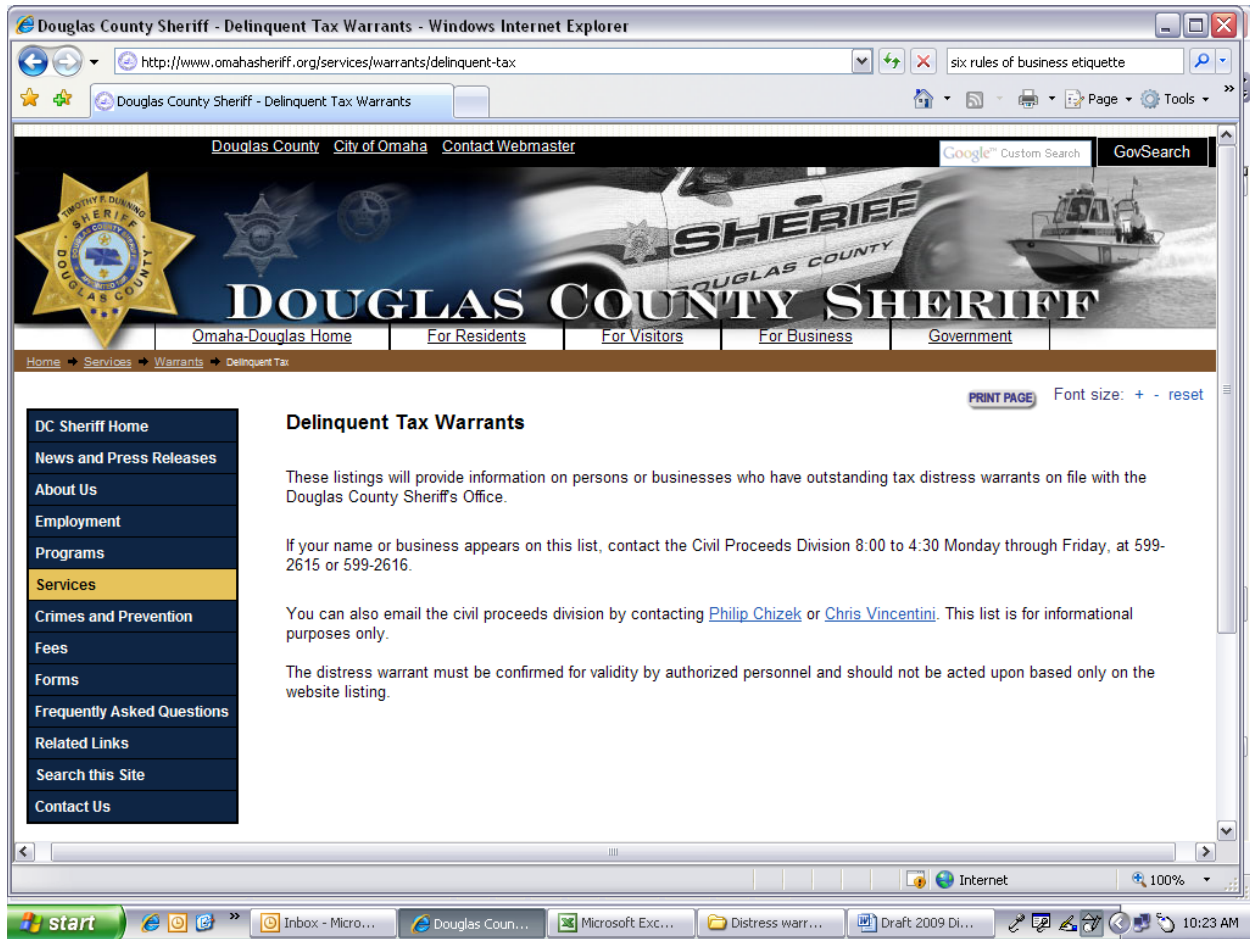
⁷ Neb. Rev. Stat. § 45-704.01

⁸ Neb. Rev. Stat. § 77-1720

AUGUST 1 FILING BY SHERIFF	PERSONAL WARRANTS COLLECTED	PERSONAL PROPERTY	PERSONAL INTEREST	REAL ESTATE WARRANTS COLLECTED	REAL PROPERTY	REAL PROPERTY INTEREST
August 1, 2005 for 2003	829	1,125,610.27	32,541.00	392	100,249.52	6,498.75
August 1, 2005 for 2004	760	829,140.24	17,162.20	300	91,585.09	2,938.65
August 1, 2006 for 2004	824	885,911.18	19,290.30	368	118,853.08	5,889.39
August 1, 2006 for 2005	623	648,303.68	18,364.12	267	80,219.43	2,384.58
August 1, 2007 for 2005	741	717,970.75	22,229.02	340	103,809.91	5,732.89
August 1, 2007 for 2006	640	834,774.45	19,257.30	240	72,351.97	2,319.86
August 1, 2008 for 2006	732	902,028.40	22,873.00	314	98,108.30	4,387.74
August 1, 2008 for 2007	669	1,521,619.09	28,508.01	230	75,127.63	2,063.50
August 1, 2009 for 2007	746	1,558,795.72	31,415.12	302	109,219.44	5,392.87
August 1, 2009 for 2008	647	846,032.06	18,415.91	201	56,737.44	1,741.57

Information for this table was obtained from the Douglas County Sheriff's Distress Warrant reports filed with the Douglas County Board. Reports are on file in the Douglas County Clerk's office.

The Douglas County Sheriff maintains a list of all current Distress Warrants issued on his website at <http://www.omahasheriff.org/services/warrants/delinquent-tax>.



Cc: Honorable Thomas F. Cavanaugh, Douglas County Clerk/Comptroller
Kathleen Hall, Chief Deputy, Douglas County Clerk/Comptroller
Audit Committee Members⁹

⁹ The audit committee members are: Honorable Chris Rodgers, Douglas County Commissioner; Mr. Ronald Bucher, Metropolitan Utilities District, Dr. Jack Armitage, Professor University of Nebraska at Omaha; Mr. T. Paul Tomoser, Creighton University; and Ms. Joanie Davis, Omaha Public Power District.

DCIAD staff participant in Compliance Review of Distress Warrants Report on Internal Controls for Hayes & Associates for FY 2009/10 #05:

Carmen Harmon, Internal Audit Administrator (signed)

FY 2008-2009 Compliance Review of Distress Warrants Report on internal controls for Hayes & Associates FY 2009/2010 #05 was released on September 24, 2009.