

ATTESTATION ENGAGEMENT

District Court 38-1-24 Montgomery County, Pennsylvania For the Period January 1, 2013 to December 31, 2016

March 2018



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

Independent Auditor's Report

The Honorable C. Daniel Hassell
Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We have examined the accompanying statement of receipts and disbursements (Statement) of District Court 38-1-24, Montgomery County, Pennsylvania (District Court), for the period January 1, 2013 to December 31, 2016, pursuant to the requirements of Section 401(c) of *The Fiscal Code*, 72 P.S. § 401(c). The District Court's management is responsible for presenting this Statement in accordance with the criteria set forth in Note 1. 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. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Statement is presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the statement of receipts and disbursements. The nature, timing and extent of the procedures selected depend on our judgement, including an assessment of the risks of material misstatement of the Statement, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide 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, for the period January 1, 2013 to December 31, 2016, is presented in accordance with the criteria set forth in Note 1, in all material respects.

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Statement; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the Statement. We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. 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 internal control over reporting on the Statement or on compliance and other matters; accordingly, we express no such opinions.

A *deficiency in internal control* 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 and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Statement will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over reporting on the Statement was for the limited purpose of expressing an opinion on whether the Statement is presented in accordance with the criteria described above and was not designed to identify all deficiencies in internal control over reporting on the Statement that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our engagement we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified. We did identify a certain deficiency in internal control, described in the finding listed below, that we consider to be a significant deficiency:

- Inadequate Arrest Warrant And DL-38 Procedures - Recurring.

As part of obtaining reasonable assurance about whether the Statement is free from material misstatement, we performed tests of the District Court's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of Statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our engagement, and accordingly, we do not express such an opinion. 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)

The examination finding contained in this report cites conditions that existed in the operation of the District Court during the previous engagement period and were not corrected during the current examination period. The District Court should strive to implement the recommendations and corrective actions noted in this report.

The purpose of this report is to determine whether all moneys collected on behalf of the Commonwealth have been correctly assessed, reported and promptly remitted. This report is not suitable for any other purposes.

We appreciate the courtesy extended by the District Court 38-1-24, Montgomery County, to us during the course of our examination. If you have any questions, please feel free to contact Michael B. Kashishian, CPA, CGAP, CFE, Director, Bureau of County Audits, at 717-787-1363.

A handwritten signature in dark ink, appearing to read "Eugene A. DePasquale", with a long horizontal flourish extending to the right.

March 8, 2018

Eugene A. DePasquale
Auditor General

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DISTRICT COURT 38-1-24
MONTGOMERY COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Receipts:

Department of Transportation	
Title 75 Fines	\$ 246,917
Motor Carrier Road Tax Fines	250
Overweight Fines	460
Commercial Driver Fines	299
Littering Law Fines	753
Child Restraint Fines	1,209
Department of Revenue Court Costs	234,591
Crime Victims' Compensation Bureau Costs	20,306
Crime Commission Costs/Victim Witness Services Costs	14,801
Domestic Violence Costs	5,293
Department of Agriculture Fines	973
Emergency Medical Service Fines	81,683
CAT/MCARE Fund Surcharges	236,128
Judicial Computer System Fees	91,796
Access to Justice Fees	28,152
Criminal Justice Enhancement Account Fees	7,356
Judicial Computer Project Surcharges	55,385
Constable Service Surcharges	11,012
Miscellaneous State Fines and Costs	193,558
	<hr/>
Total receipts (Note 2)	1,230,922
Disbursements to Commonwealth (Note 3)	<hr/> (1,230,922)
Balance due Commonwealth (District Court) per settled reports (Note 4)	-
Examination adjustments	<hr/> -
Adjusted balance due Commonwealth (District Court) for the period January 1, 2013 to December 31, 2016	<hr/> \$ -

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

DISTRICT COURT 38-1-24
MONTGOMERY COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

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>1,230,922</u>
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4. Balance Due Commonwealth (District Court) For The Period January 1, 2013 To December 31, 2016

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

5. Magisterial District Judge Serving During Examination Period

Albert J. Augustine served at District Court 38-1-24 for the period January 1, 2013 to December 31, 2016.

DISTRICT COURT 38-1-24
MONTGOMERY COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Finding - Inadequate Arrest Warrant and DL-38 Procedures - Recurring

We cited the issue of inadequate arrest warrant and DL-38 procedures in the four prior examinations, with the most recent being for the period January 1, 2009 to December 31, 2012. Our current examination found that the office did not correct this issue.

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 current 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 tested 47 instances in which a warrant was required to be issued. Our testing disclosed that 19 were not issued timely and 5 were not issued at all. The time of issuance ranged from 66 days to 921 days.

In addition, of 40 warrants required to be returned or recalled, 9 were not returned or recalled, and 16 were not returned timely. The time of issuance to the time of return ranged from 235 days to 1,200 days. We also found that 28 of the 31 returned warrants were not in the individual case files.

Furthermore, we tested 22 instances in which a DL-38 was required to be issued. Our testing disclosed that 10 were not issued timely and 6 were not issued at all. The time of issuance ranged from 63 days to 241 days.

These conditions existed because the office failed to establish and implement an adequate system of internal controls over warrants and DL-38s as recommended in the four prior examination reports.

The Manual establishes the uniform written internal control policies and procedures for all district courts.

DISTRICT COURT 38-1-24
MONTGOMERY COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Finding - Inadequate Arrest Warrant and DL-38 Procedures - Recurring (Continued)

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. 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. 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.

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 120 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.

DISTRICT COURT 38-1-24
MONTGOMERY COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Finding - Inadequate Arrest Warrant And DL-38 Procedures - Recurring (Continued)

Document Retention: The *Supreme Court of Pennsylvania Administrative Office of Pennsylvania Courts Record Retention & Disposition Schedule with Guidelines* (Schedule) states in part that.

Records subject to audit must be retained for the periods listed in the schedule and must be audited and all findings resolved before such records may be destroyed.
[Emphasis added.]

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. §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. §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.

The failure to follow warrant and DL-38 procedures could result in uncollected fines and unpunished offenders. In addition, the failure to maintain these records resulted in an unclear examination trail and 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.

Recommendations

We strongly recommend that the district court take immediate action to review the tickler reports for warrants and DL-38s daily and take appropriate action as required by the Manual. We further recommend that the court review warrant control reports and notify police or other officials to return warrants that are unserved for 120 days for summary traffic and non-traffic cases as recommended by the Manual. Finally, we recommend that the district court comply with the procedures listed in the Schedule.

DISTRICT COURT 38-1-24
MONTGOMERY COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Finding - Inadequate Arrest Warrant And DL-38 Procedures - Recurring (Continued)

Management's Response

The Magisterial District Judge responded as follows:

The court will review tickler reports and take the appropriate actions as dictated by the Magisterial District Judge automated Office Clerical Procedures Manual. Warrant control reports will likewise be monitored in order to notify police or other officials to return unserved warrants after 120 days. It is understood that these are recurring issues and will be addressed immediately.

Auditor's Conclusion

This is a recurring finding. It is imperative that the district court complies with our recommendations. The risk of uncollected fines and unpunished offenders continues to exist long as these deficiencies exist. During our next examination, we will determine if the district court complied with our recommendations.

DISTRICT COURT 38-1-24
MONTGOMERY COUNTY
SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Summary Of Prior Examination Recommendations

During our prior examination, we recommended that:

- The office establish and implement an adequate system of internal controls over computer downtime manual receipts
- The Magisterial District Judge authorize the disposition of the cases and documentation is available for examination.
- The district court review the tickler reports for warrants and DL-38s daily and take appropriate action as required by the Manual. We further recommended 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.

During our current examination, we noted that the office complied with our first and second bulleted recommendations. However, the office did not comply with our third bulleted recommendation. Please see the current year finding for additional information.

DISTRICT COURT 38-1-24
MONTGOMERY COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

This report was initially distributed to:

The Honorable C. Daniel Hassell
Secretary
Pennsylvania Department of Revenue

The Honorable Thomas B. Darr
Court Administrator of Pennsylvania
Supreme Court of Pennsylvania
Administrative Office of Pennsylvania Courts

The Honorable Albert J. Augustine
Magisterial District Judge

The Honorable Dr. Valerie Arkoosh
Chairperson of the Board of Commissioners

The Honorable Karen Sanchez
Controller

Michael R. Kehs, Esq.
District Court Administrator

This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.