



**DISTRICT COURT 38-1-20
MONTGOMERY COUNTY
EXAMINATION REPORT
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012**

COMMONWEALTH OF PENNSYLVANIA
EUGENE A. DEPASQUALE - AUDITOR GENERAL
DEPARTMENT OF THE AUDITOR GENERAL



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EUGENE A. DePASQUALE
AUDITOR GENERAL

Independent Auditor's Report

The Honorable Daniel P. Meuser
Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We have examined the accompanying statement of receipts and disbursements (Statement) of District Court 38-1-20, Montgomery County, Pennsylvania (District Court), for the period January 1, 2009 to December 31, 2012, 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 January 1, 2009 to December 31, 2012, 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:

- Bank Deposit Slips Were Not Validated.
- Receipts Were Not Always Deposited On The Same Day As Collected.
- Initial Costs For Civil Cases Were Not Always Receipted And Deposited Timely - Recurring.
- Inadequate Arrest Warrant And DL-38 Procedures - Recurring.

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 three bulleted deficiencies to be material weaknesses.

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*.

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.

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

January 15, 2014

EUGENE A. DEPASQUALE
Auditor General

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DISTRICT COURT 38-1-20
MONTGOMERY COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Receipts:

Department of Transportation		
Title 75 Fines	\$	336,810
Motor Carrier Road Tax Fines		367
Overweight Fines		150
Commercial Driver Fines		947
Littering Law Fines		900
Child Restraint Fines		1,769
Department of Revenue Court Costs		284,268
Crime Victims' Compensation Bureau Costs		32,598
Crime Commission Costs/Victim Witness Services Costs		24,146
Domestic Violence Costs		9,405
Department of Agriculture Fines		38
Emergency Medical Service Fines		109,610
CAT/MCARE Fund Surcharges		336,465
Judicial Computer System Fees		117,089
Access to Justice Fees		31,785
Criminal Justice Enhancement Account Fees		5,958
Judicial Computer Project Surcharges		27,192
Constable Service Surcharges		13,226
Miscellaneous State Fines and Costs		2,740
		<hr/>
Total receipts (Note 2)		1,335,463
Disbursements to Commonwealth (Note 3)		<hr/> (1,335,463) <hr/>
Balance due Commonwealth (District Court) per settled reports (Note 4)		-
Examination adjustments		<hr/> - <hr/>
Adjusted balance due Commonwealth (District Court) for the period January 1, 2009 to December 31, 2012	\$	<hr/> <hr/> -

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

DISTRICT COURT 38-1-20
MONTGOMERY COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

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	\$ 1,335,365
Game Commission	88
Administrative Office of Pennsylvania Courts	<u>10</u>
Total	<u><u>\$ 1,335,463</u></u>

4. Balance Due Commonwealth (District Court) For The Period January 1, 2009 To December 31, 2012

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

DISTRICT COURT 38-1-20
MONTGOMERY COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

5. Magisterial District Judges Serving During Examination Period

Benjamin R. Crahalla served at District Court 38-1-20 for the period January 1, 2009 to December 31, 2010.

Cathleen Kelly Rebar served at District Court 38-1-20 for the period January 1, 2011 to December 31, 2012.

DISTRICT COURT 38-1-20
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Finding No. 1 - Bank Deposit Slips Were Not Validated

Our examination of the district court's accounting records disclosed that the office copy of the bank deposit slip was not validated by the bank in 28 of the 60 deposits tested. The district court received a validated receipt from the bank, but this only confirmed the total amount deposited and not the actual make up of the deposit (i.e. cash and check mix).

Good internal accounting controls require that the amount of each check and the total amount of cash deposited are identified on the deposit slip. The office copy of each deposit should be brought to the bank to be validated. If the bank cannot validate the deposit slip, the district court should obtain a deposit ticket from the bank that validates the total cash and the total deposit. After the district court receives validation from the bank, it should be reconciled to the receipts by someone other than the person preparing or making the deposit.

Without a good system of internal control over funds received by the office, the possibility of funds being lost or misappropriated increases significantly.

The district court was not aware of the potential internal control weaknesses caused by not having a validated deposit slip.

Recommendations

We recommend that the district court obtain a validation from the bank as to the mix of cash and checks deposited. We further recommend that the validation is reconciled to receipts by someone other than the person preparing or making the deposit.

Management's Response

The Magisterial District Judge responded as follows:

The state and county budget crisis has negatively impacted staffing levels at District Court 38-1-20. The existing staff works diligently to see to administering all responsibilities of their respective positions. Often staff stay way past their allotted schedules to continue work and keep up. As a result of staffing deficiencies the court cannot tend to all administrative duties all the time. As soon as we are able to employ additional staff we will be fully compliant. Additionally, we hold court for extended night time hours for the public, which occurs after the bank closes for the day. We secure all monies for a timely deposit upon the opening of the bank in the morning. All deposits are checked by two staff members always.

DISTRICT COURT 38-1-20
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Finding No. 2 - Receipts Were Not Always Deposited On The Same Day As Collected

Our examination disclosed that receipts were not always deposited on the same day as collected. Of 60 receipts tested, we noted the following:

- Forty-five receipts were not deposited on the same day as collected. The time lapse from the date of receipt to the subsequent date of deposit ranged from one day to two days.
- Six instances in which monies held overnight were excessive. The amounts ranged from \$496.50 to \$10,090.00.

Good internal accounting controls require that all monies collected be deposited in the bank at the end of every day. 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:

All money, including partial payments received by the Magisterial District Judge office (e.g. cash, checks, and money orders), must be deposited in the bank at the end of every business day. A bank night depository may be used by all (night) courts as well as by any court that cannot get to the bank during banking hours. Money should not be taken home, left in the office overnight, or unattended. The Daily Cash Balancing procedure must be completed every day.

Without a good system of internal control over funds received by the office, the possibility of funds being lost or misappropriated increases significantly.

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 collections.

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

DISTRICT COURT 38-1-20
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Finding No. 2 - Receipts Were Not Always Deposited On The Same Day As Collected
(Continued)

Recommendation

We recommend that the district court deposit all receipts at the end of each day as required by good internal accounting controls and the Manual.

Management's Response

The Magisterial District Judge responded as follows:

The state and county budget crisis has negatively impacted staffing levels at District Court 38-1-20. The existing staff works diligently to see to administering all responsibilities of their respective positions. Often staff stay way past their allotted schedules to continue work and keep up. As a result of staffing deficiencies the court cannot tend to all administrative duties all the time. As soon as we are able to employ additional staff we will be fully compliant. Additionally, we hold court for extended night time hours for the public, which occurs after the bank closes for the day. We secure all monies for a timely deposit upon the opening of the bank in the morning. All deposits are checked by two staff members always.

DISTRICT COURT 38-1-20
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Finding No. 3 - Initial Costs For Civil Cases Were Not Always Received and Deposited
Timely - Recurring

We cited the issue of initial costs for civil cases not always being received and deposited timely in the prior examination report for the period ending December 31, 2008. However, our current examination found that the district court did not correct this issue. Our current examination of civil case procedures in the district court disclosed that civil case filing fees were not received or deposited at the time of filing. In 15 of 15 civil cases tested, the date of initial filing costs differed from the date monies were received and subsequently deposited. The time lapse from the date of filing to the subsequent receipt date ranged from 1 day to 25 days.

The *Magisterial District Justice Automated Office Clerical Procedures Manual* (Manual) establishes the uniform written internal control policies and procedures for all district courts. The Manual states that “In civil actions, the fees for filing and service of the complaint shall be paid at the time of filing, except as otherwise provided by law, i.e., proceedings in forma pauperis.”

This condition existed because the district court ignored our prior examination recommendation and failed to establish and implement an adequate system of internal controls over civil case collection procedures.

Good internal accounting controls require that all monies collected be receipted at the time of collection and deposited in the bank at the end of every day. Additionally, the Manual requires that:

All money, including partial payments received by the Magisterial District Judge office (e.g. cash, checks, and money orders), must be deposited in the bank at the end of every business day. A bank night depository may be used by all (night) courts as well as by any court that cannot get to the bank during banking hours. Money should not be taken home, left in the office overnight, or unattended. The Daily Cash Balancing procedure must be completed every day.

Without a good system of internal control over funds received by the office, the possibility of funds being lost or misappropriated increases significantly.

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 civil case collections.

DISTRICT COURT 38-1-20
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Finding No. 3 - Initial Costs For Civil Cases Were Not Always Received and Deposited
Timely - Recurring (Continued)

Recommendations

We again strongly recommend that the district court review and incorporate the procedures outlined in the Manual for collecting filing fees for civil costs. We further recommend that the district court deposit all receipts at the end of each day as required by good internal accounting controls and the Manual.

Management's Response

The Magisterial District Judge responded as follows:

The state and county budget crisis has negatively impacted staffing levels at District Court 38-1-20. The existing staff works diligently to see to administering all responsibilities of their respective positions. Often staff stay way past their allotted schedules to continue work and keep up. As a result of staffing deficiencies the court cannot tend to all administrative duties all the time. As soon as we are able to employ additional staff we will be fully compliant. Additionally, we hold court for extended night time hours for the public, which occurs after the bank closes for the day. We secure all monies for a timely deposit upon the opening of the bank in the morning. All deposits are checked by two staff members always.

Auditor's Conclusion

This is a recurring finding. The office must take all corrective actions necessary to comply with our recommendations.

DISTRICT COURT 38-1-20
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Finding No. 4 - Inadequate Arrest Warrant And DL-38 Procedures - Recurring

We cited the district court for inadequate arrest warrant and DL-38 procedures in the three prior examination reports, with the most recent for the period ending December 31, 2008. However, our current examination found that the office once again 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.

Once again, 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 tested 34 instances in which a warrant was required to be issued. Our testing disclosed that 13 were not issued timely and 13 were not issued at all. The time of issuance ranged from 83 days to 591 days.

In addition, of 20 warrants required to be returned or recalled, 9 were not returned or recalled, and 2 were not returned timely. The time of issuance to the time of return ranged from 309 days to 1,389 days.

Furthermore, we tested 18 instances in which a DL-38 was required to be issued. Our testing disclosed that eight were not issued timely and eight were not issued at all. The time of issuance ranged from 99 days to 799 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.

DISTRICT COURT 38-1-20
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Finding No. 4 - Inadequate Arrest Warrant And DL-38 Procedures - Recurring (Continued)

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.

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).

DISTRICT COURT 38-1-20
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
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Finding No. 4 - Inadequate Arrest Warrant And DL-38 Procedures - Recurring (Continued)

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.

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.

This condition existed because the district court ignored our three prior examination recommendations to review the tickler reports and DL-38s daily. 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 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 60 days for summary traffic and non-traffic cases as required by the Manual.

Management's Response

The Magisterial District Judge responded as follows:

The state and county budget crisis has negatively impacted staffing levels at District Court 38-1-20. The existing staff works diligently to see to administering all responsibilities of their respective positions. Often staff stay way past their allotted schedules to continue work and keep up. As a result of staffing deficiencies the court cannot tend to all administrative duties all the time. As soon as we are able to employ additional staff we will be fully compliant. Additionally, we hold court for extended night time hours for the public, which occurs after the bank closes for the day. We secure all monies for a timely deposit upon the opening of the bank in the morning. All deposits are checked by two staff members always.

Auditor's Conclusion

This is a recurring finding. It is imperative that the district court complies with our recommendations. During our next examination we will determine if the district court complied with our recommendations.

DISTRICT COURT 38-1-20
MONTGOMERY COUNTY
COMMENT
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Comment - Compliance With Prior Examination Recommendation

During our prior examination, we recommended that the office establish and implement an adequate system of internal controls over the bank account.

During our current examination, we noted that the office complied with our recommendation.

DISTRICT COURT 38-1-20
MONTGOMERY COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

This report was initially distributed to:

The Honorable Daniel P. Meuser
Secretary
Pennsylvania Department of Revenue

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

The Honorable Cathleen Kelly Rebar	Magisterial District Judge
The Honorable Josh Shapiro	Chair of the Board of Commissioners
The Honorable Stewart J. Greenleaf, Jr.	Controller
Mr. Michael R. Kehs, Esquire	Court Administrator

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