

DISTRICT COURT 38-1-11
MONTGOMERY COUNTY
EXAMINATION REPORT
FOR THE PERIOD
JANUARY 1, 2003 TO DECEMBER 31, 2005

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Independent Auditor's Report

The Honorable Thomas W. Wolf
Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We have examined the accompanying statement of receipts and disbursements (Statement) of District Court 38-1-11, Montgomery County, Pennsylvania (District Court), for the period January 1, 2003 to December 31, 2005, pursuant to the requirements of Section 401(c) of *The Fiscal Code*. 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 reported and promptly transmitted. *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 Department of Revenue and other state agencies for the period ended December 31, 2005, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report findings of 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 the Statement or on compliance and other matters; accordingly, we express no such opinions. Our examination disclosed certain findings that are required to be reported under *Government Auditing Standards* and those findings, along with the views of management, are described in the Findings and Recommendations section of the report.

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. The District Court should strive to implement the recommendations and corrective action noted in this examination report. During our current examination, we noted several weaknesses in the internal controls over documentation regarding credit for jail time served and community service performed, receipting and depositing the initial costs on civil cases, and assessing the correct costs on parking violations 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.

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.

September 10, 2007

JACK WAGNER
Auditor General

DISTRICT COURT 38-1-11
MONTGOMERY COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2003 TO DECEMBER 31, 2005

Receipts:

Department of Transportation			
Title 75 Fines	\$	114,946	
Overweight Fines		428	
Littering Law Fines		150	
Child Restraint Fines		122	
Department of Revenue Court Costs		162,613	
Crime Victims' Compensation Bureau Costs		30,970	
Crime Commission Costs/Victim Witness Services Costs		23,740	
Department of Public Welfare			
Domestic Violence Costs		9,654	
Attend Care Fines		421	
Department of Conservation and Natural Resources Fines		2,389	
Emergency Medical Service Fines		54,600	
CAT/MCARE Fund Surcharges		167,644	
Judicial Computer System Fees		82,456	
Access to Justice Fees		13,832	
Constable Service Surcharges		12,715	
Miscellaneous State Fines		650	
Total receipts (Note 2)	\$	677,330	
Disbursements to Department of Revenue (Note 3)		<u>(677,330)</u>	
Balance due Department of Revenue (District Court) per settled reports (Note 4)		-	
Examination adjustments		<u>-</u>	
Adjusted balance due Department of Revenue (District Court) for the period January 1, 2003 to December 31, 2005	\$	<u><u>-</u></u>	

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

DISTRICT COURT 38-1-11
MONTGOMERY COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2003 TO DECEMBER 31, 2005

1. Criteria

The Statement of Receipts and Disbursements (Statement) has been prepared in accordance with Title 72 P.S. Section 401 (c) of *The Fiscal Code*, which requires the Department of the Auditor General to determine whether all money collected on behalf of the Commonwealth has been remitted promptly and to provide the Department of Revenue with a report to enable them to settle an account covering any delinquency.

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 Department of Revenue and other state agencies. 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:

Checks issued to the Department of Revenue	<u>\$ 677,330</u>
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4. Balance Due Department Of Revenue (District Court) For The Period January 1, 2003 To December 31, 2005

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

5. Magisterial District Judge Serving During Examination Period

Thomas A. Palladino served at District Court 38-1-11 for the period January 1, 2003 to December 31, 2005.

DISTRICT COURT 38-1-11
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2003 TO DECEMBER 31, 2005

Finding No. 1 - Inadequate Documentation Procedures

The jail time adjustment is used to record jail time served in lieu of payments of fines and costs in traffic cases and as an alternative sentence in non-traffic summary cases. The community service adjustment may be imposed by the Magisterial District Judge upon defendants who are determined unable to meet their time payments in summary cases. Jail time and community service credits are given to defendants to lower the amount of fines and costs due on a case in lieu of payment.

Our testing of cases involving credit allowed for serving jail time and performing community service disclosed that the District Court did not always have proper documentation as proof of time served or the service performed. Of the 50 cases tested, 38 did not have the proper documentation.

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 states that credit for jail time or community service compensation may be imposed by the Magisterial District Judge. However, there must be proper documentation supporting that the defendant served the jail time or performed the community service maintained in the case file.

This condition increases the possibility of monies being misappropriated by removing collections from the office and disposing of cases by applying jail time or community service to the cases instead of the monies collected.

Recommendation

We recommend that the district court maintain the proper documentation supporting that jail time was served or that community service was performed in lieu of fines and costs in the case file.

Management's Response

The Magisterial District Judge responded as follows:

This problem has been corrected. Documentation is now attached to each citation given jail time or community service.

DISTRICT COURT 38-1-11
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2003 TO DECEMBER 31, 2005

Finding No. 2 - Initial Costs For Civil Cases Were Not Always Received And Deposited Timely

Our examination of civil case procedures in the district court disclosed that civil case filing fees were not receipted or deposited at the time of filing. In all 20 civil cases tested, the date of initial filing costs differed from the date monies were receipted and subsequently deposited. The time lapse from the date of filing to the subsequent receipt and deposit date ranged from 8 to 35 days.

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

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 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.”

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 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.

Recommendations

We 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 county requires civil cases to be filed the date they are received. The monies are applied the date the case is processed.

Auditor’s Conclusion

As stated above, good internal controls and the Manual require that monies are receipted and deposited on the same date as filing of the case.

DISTRICT COURT 38-1-11
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
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Finding No. 3 - Inadequate Procedures Utilized In Assessing Costs On Parking Violations

We noted that the Magisterial District Judge did not assess the costs associated with parking citations as mandated by law. Our examination disclosed that in all 20 parking citations tested, the defendant was only assessed the fine associated with the violation and the costs were waived by the Magisterial District Judge.

Unless a defendant is on a payment plan, has defaulted on that payment plan, has been declared indigent at a hearing, or has been sentenced to community service in lieu of fines and costs, all associated fines and costs are required to be paid on any citation with a guilty disposition.

The office is responsible for assessing fines, costs, fees, and surcharges as mandated by law. The failure to correctly assess fines, costs, fees, and surcharges results in a loss of revenue to the Commonwealth and/or County.

We believe this condition existed because the office was not aware or up-to-date on laws and regulations regarding the proper assessment of Commonwealth and/or County fines, costs, fees, and surcharges.

Recommendation

We recommend that the district court assess all fines, costs, fees, and surcharges as mandated by law.

Management's Response

The Magisterial District Judge responded as follows:

The problem with regard to parking violations had been addressed and corrected.

DISTRICT COURT 38-1-11
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
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Finding No. 4 - 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 21 instances in which a warrant was required to be issued. Our testing disclosed that 2 were not issued timely and 16 were not issued at all. The time of issuance ranged from 173 days to 763 days.

In addition, of five warrants required to be returned or recalled, three were not returned or recalled.

Furthermore, we sampled 14 instances in which a DL-38 was required to be issued. Our testing disclosed that two were not issued timely and ten were not issued at all. The time of issuance ranged from 113 days to 186 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 38-1-11
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
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Finding No. 4 - Inadequate Arrest Warrant And DL-38 Procedures (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).

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Finding No. 4 - Inadequate Arrest Warrant And DL-38 Procedures (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 when required could result 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 and DL-38s.

This finding was cited in the prior audit period ending December 31, 2002.

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 further 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

The Magisterial District Judge responded as follows:

The issuance of DL-38s and warrants were not done timely due to inadequate staffing.

Auditor's Conclusion

Although we recognize the district court's concerns about staffing, it is imperative that warrants and DL-38s are issued timely to enforce the collection of monies.

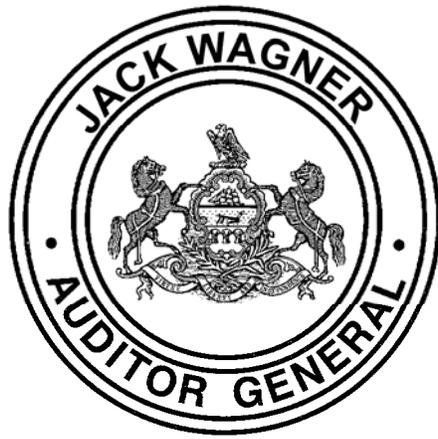
DISTRICT COURT 38-1-11
MONTGOMERY COUNTY
COMMENT
FOR THE PERIOD
JANUARY 1, 2003 TO DECEMBER 31, 2005

Comment - Compliance With Prior Audit Recommendation

During our prior audit, we made the following recommendation:

- That the office review the undisbursed funds report on a monthly basis and disburse funds to whom they are due.

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



DISTRICT COURT 38-1-11
MONTGOMERY COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2003 TO DECEMBER 31, 2005

This report was initially distributed to:

The Honorable Thomas W. Wolf
Secretary
Department of Revenue

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

District Court 38-1-11
Montgomery County
One Security Plaza, Suite 101
Pottstown, PA 19464

The Honorable Thomas A. Palladino	Magisterial District Judge
Michael R. Kehs, Esquire	District Court Administrator
The Honorable Thomas Jay Ellis	Chairman of the Board of Commissioners
The Honorable Eric Kretschman	Controller

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