DISTRICT COURT 38-1-24

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 38-1-24, 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*, 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 Pennsylvania 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 previously reported findings regarding late payments to the Department of Revenue and inadequate arrest warrant and DL-38 procedures. The District Court should strive to implement the recommendations and corrective actions noted in this examination report. During our current examination, we noted several significant weaknesses in the internal controls over payments to the Department of Revenue and over warrants and DL-38s that need corrective action. These significant deficiencies resulted in the Department of Revenue not receiving its monies on a timely basis and increase the risk that fines and costs will not be collected and offenders will go unpunished.

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.

March 27, 2007

JACK WAGNER
Auditor General

DISTRICT COURT 38-1-24
MONTGOMERY COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2003 TO DECEMBER 31, 2005

Receipts:		
Department of Transportation		
Title 75 Fines	$ 272,483	
Motor Carrier Road Tax Fines	513	
Overweight Fines	708	
Commercial Driver Fines	2,200	
Littering Law Fines	1,225	
Child Restraint Fines	460	
Department of Revenue Court Costs	170,133	
Crime Victims' Compensation Bureau Costs	29,144	
Crime Commission Costs/Victim Witness Services Costs	21,742	
Department of Public Welfare		
Domestic Violence Costs	7,651	
Attend Care Fines	48	
Department of Agriculture Fines	2,274	
Fish and Boat Commission Fines	2,866	
Game Commission Fines	25,959	
Emergency Medical Service Fines	75,617	
CAT/MCARE Fund Surcharges	233,072	
Judicial Computer System Fees	88,326	
Access to Justice Fees	14,797	
Constable Service Surcharges	9,613	
Department of Labor and Industry Fines	300	
Firearm Education and Training Costs	5	
Miscellaneous State Fines	1,800	
Total receipts (Note 2)		$ 960,936
Disbursements to Department of Revenue (Note 3)		(953,885)
Balance due Department of Revenue (District Court) per settled reports (Note 4)		7,051
Examination adjustments		-
Adjusted balance due Department of Revenue (District Court) for the period January 1, 2003 to December 31, 2005		$ 7,051

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, 2003 TO DECEMBER 31, 2005

1. Criteria

The Statement of Receipts and Disbursements (Statement) has been prepared in accordance with Section 401(c) of *The Fiscal Code*, 72 P.S § 401(c), 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 Pennsylvania Department of Revenue (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 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	$ 953,885

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. The balance does not reflect credit for two payments totaling $7,051, which were credited by the Department of Revenue in February 2006 and January 2007.

5. Reconciliation Of Settled Reports

The following presents a reconciliation of monthly reports settled by the Department of Revenue for the period January 1, 2003 to December 31, 2005:

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)
2003					
January	$ -	$ -	$ -	$ -	$ -
February	-	-	-	-	-
March	-	-	-	-	-
April	-	-	-	-	-
May	-	-	-	-	-
June	-	-	-	-	-
July	-	-	-	-	-
August	-	-	-	-	-
September	-	-	-	-	-
October	-	-	-	-	-
November	-	-	-	-	-
December	-	-	-	-	-
2004					
January	-	-	-	-	-
February	-	-	-	-	-
March	-	-	-	-	-
April	-	-	-	-	-
May	-	-	-	-	-
June	-	-	-	-	-
July	-	-	-	-	-
August	-	-	-	-	-
September	-	-	-	-	-
October	-	-	-	-	-
November	1,752	-	-	-	1,752
December	10	-	-	-	10

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)
2005					
January	-	-	-	-	-
February	-	-	-	-	-
March	-	-	-	-	-
April	-	-	-	-	-
May	-	-	-	-	-
June	-	-	-	-	-
July	-	-	-	-	-
August	-	-	-	-	-
September	-	-	-	-	-
October	-	-	-	-	-
November	5,289	-	-	-	5,289
December	-	-	-	-	-
Balance due Department of Revenue (District Court) per settled reports					7,051
Examination adjustments					-
Adjusted balance due Department of Revenue (District Court) for the period January 1, 2003 to December 31, 2005					$ 7,051

6. Magisterial District Judge Serving During Examination Period

Albert J. Augustine served at District Court 38-1-24 for the period January 1, 2003 to December 31, 2005.

Finding No. 1 - Late Payments To The Department Of Revenue

Our examination disclosed that the final payment of the month was transmitted late for 3 of the 36 months examined. The following schedule identifies the late payments:

Month/Year	Due Date	Date Issued	Amount
January 2005	02/05/05	02/08/05	$ 472
March 2005	04/05/05	04/11/05	5,716
June 2005	07/05/05	07/06/05	3,622
Total			$9,810

Additionally, 27 of the 128 weekly payments tested were not transmitted timely. Of the 27 late payments, 3 were included with the subsequent week's check.

Furthermore, we noted that 2 checks issued to the Department of Revenue remained outstanding for 14 and 13, months respectively, before being voided and reissued.

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 the district court generate the "No" run and "Yes" run reports on a weekly basis. The "Yes" run creates a check to the Department of Revenue consisting of the week's collections. Additionally, Section 901 of *The Fiscal Code* requires that all collections be remitted by the fifth of the following month.

Good internal accounting controls require that the office follow-up on all outstanding checks. If a check is outstanding for a period over 90 days, efforts should be made to locate the payee. If efforts to locate the payee are unsuccessful, the amount of the check should be removed from the outstanding checklist, added back to the checkbook balance, and subsequently held in escrow for unclaimed escheatable funds.

Adherence to Section 901 of *The Fiscal Code* and the uniform internal control policies and procedures, as set forth in the Manual, would have ensured that there were adequate internal controls over payments to the Department of Revenue.

The condition of payments not being transmitted timely was cited in the prior audit period ending December 31, 2002.

Finding No. 1 - Late Payments To The Department Of Revenue (Continued)

Recommendations

We again recommend that the district court transmit the Commonwealth's portion of fines and costs as required by the Manual and Section 901 of *The Fiscal Code*.

We further recommend that the district court establish and implement a procedure whereby outstanding checks are reviewed monthly to determine if there are any long outstanding checks. Long outstanding checks issued to the Department of Revenue should be timely voided and reissued to the Department.

Management's Response

The Magisterial District Judge responded as follows:

> Final payment of the month issued late in 3 of 36 months tested. - It has been the practice of this Court to try and resolve this finding. This Court will continue to make all attempts to issue the final payments on time. We have taken steps to alleviate this issue by rotating the monthly in house bookkeeping between two (2) clerks instead of one (1) clerk being responsible solely for the bookkeeping.
>
> Three checks for a certain period included with subsequent weeks check - This Court will change our policy that when the end of the month falls on a Thursday or a Friday we will not include those days in the following week. An end of week will be done on every Friday regardless of what day of the week the end of the month falls on. This should correct this finding.
>
> Two checks issued to Revenue but not cashed - Our Court has taken steps to assign the in house bookkeeping to two (2) clerks with rotating every other month. If this finding was an oversight by the clerk assigned to the monthly bookkeeping and by our Court Administrator's office, with two (2) different clerks doing the in house bookkeeping we hopefully will not allow this finding to occur again.

Finding No. 2 - 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 31 instances in which a warrant was required to be issued. Our testing disclosed that 15 were not issued timely and 1 was not issued at all. The time of issuance ranged from 66 days to 456 days.

In addition, of 30 warrants required to be returned or recalled, 8 were not returned or recalled, and 6 were not returned timely. The time of issuance to the time of return ranged from 194 days to 310 days.

Furthermore, we sampled 12 instances in which a DL-38 was required to be issued. Our testing disclosed that 11 were not issued timely. The time of issuance ranged from 70 days to 308 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.

Finding No. 2 - 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).

Finding No. 2 - 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:

> Every step is being taken to try and resolve this recurring finding. Our Court will continue to take all measures to issue the DL-38's and Warrants on a weekly basis. However, with being short staffed these procedures can not always be done weekly. We have also notified our entire working constable that the warrants should be signed, dated and returned as soon as possible after receiving notification from the Court that the defendant has responded.

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. We appreciate the district court's effort to urge constables to return the warrants. Magisterial District Judges have the power to choose the independent contractors who will perform services on behalf of the court. They also have the authority to dictate minimum standards of satisfactory performance, so long as said standards are not inconsistent with pertinent statutes and Rules of Court. Such standards should include the requirement that constables or other third parties return warrants when requested.

Comment – Compliance With Prior Audit Recommendations

During our prior audit, we made the following recommendations:

- That the office deposit all receipts at the end of each day.
- 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 recommendations.

DISTRICT COURT 38-1-24
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
Pennsylvania Department of Revenue

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

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Montgomery County
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Michael R. Kehs, Esquire	District Court Administrator
The Honorable Albert J. Augustine	Magisterial District Judge
The Honorable Thomas Jay Ellis	Chairman of the Board of Commissioners
The Honorable Eric Kretschman	Controller

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