

ATTESTATION ENGAGEMENT

District Court 38-1-25
Montgomery County, Pennsylvania
For the Period
January 1, 2010 to December 31, 2012

September 2014



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 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 38-1-25, Montgomery County, Pennsylvania (District Court), for the period January 1, 2010 to December 31, 2012, 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 this Statement. 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 and, accordingly, included 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*.

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, 2010 to December 31, 2012, in conformity with the criteria set forth in Note 1.

Independent Auditor's Report (Continued)

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.

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. However, as described below, we identified certain deficiencies in internal control that we consider to be material weaknesses and significant deficiencies.

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. We consider the deficiencies listed below to be material weaknesses.

- Unsecured Payment Drop-Off Utilized By The District Court.
- Inadequate Segregation Of Duties.
- Receipts Were Not Always Deposited On The Same Day As Collected.

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. We consider the deficiency listed below to be a significant deficiency.

- Inadequate Arrest Warrant Procedures.

Independent Auditor's Report (Continued)

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*.

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.

We appreciate the courtesy extended by District Court 38-1-25, 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.



Eugene A. DePasquale
Auditor General

July 9, 2014

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DISTRICT COURT 38-1-25
MONTGOMERY COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

Receipts:

Department of Transportation		
Title 75 Fines	\$	246,934
Motor Carrier Road Tax Fines		675
Overweight Fines		250
Commercial Driver Fines		845
Littering Law Fines		416
Child Restraint Fines		281
Department of Revenue Court Costs		165,917
Crime Victims' Compensation Bureau Costs		17,259
Crime Commission Costs/Victim Witness Services Costs		12,308
Domestic Violence Costs		4,560
Emergency Medical Service Fines		64,718
CAT/MCARE Fund Surcharges		197,846
Judicial Computer System Fees		73,729
Access to Justice Fees		20,657
Criminal Justice Enhancement Account Fees		5,167
Judicial Computer Project Surcharges		23,527
Constable Service Surcharges		9,845
Miscellaneous State Fines and Costs		23,075
		<hr/>
Total receipts (Note 2)		868,009
Disbursements to Commonwealth (Note 3)		<hr/> (868,009)
Balance due Commonwealth (District Court) per settled reports (Note 4)		-
Examination adjustments		<hr/> -
Adjusted balance due Commonwealth (District Court) for the period January 1, 2010 to December 31, 2012	\$	<hr/> <hr/> -

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

DISTRICT COURT 38-1-25
MONTGOMERY COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2010 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	\$ 867,972
Pennsylvania Turnpike Commission	<u>37</u>
	<u><u>\$ 868,009</u></u>

4. Balance Due Commonwealth (District Court) For The Period January 1, 2010 To December 31, 2012

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

5. Magisterial District Judge Serving During Examination Period

James P. Gallagher served at District Court 38-1-25 for the period January 1, 2010 to December 31, 2012.

DISTRICT COURT 38-1-25
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

Finding No. 1 - Unsecured Payment Drop-Off Utilized By The District Court

Our examination disclosed that monies are being dropped off after office hours and on weekends in the mail slot at the district court. In addition, mail is being delivered on Saturdays and put into the mail slot.

If the district court accepts payments after office hours, the court should install a locked, secured, drop-off box, which can only be accessed by authorized personnel. Additionally, the court should notify defendants that only payments made by check will be accepted in the drop-off box.

Good internal accounting controls require that all monies collected be adequately safeguarded and 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 good internal accounting controls and 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 office failed to establish and implement an adequate system of internal controls over funds collected through the mail slot.

Recommendation

We recommend that the district court take measures to ensure that monies are not dropped off after hours and on weekends in the mail slot at the district court. If monies are accepted after office hours, the court should install a locked, secured, drop-off box, which can only be accessed by authorized personnel. Additionally, the court should notify defendants that only checks will be accepted in the drop-off box.

DISTRICT COURT 38-1-25
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

Finding No. 1 - Unsecured Payment Drop-Off Utilized By The District Court (Continued)

Management's Response

The Magisterial District Judge responded as follows:

Payments deposited into the exterior drop box "door" are received on a shelf in a closet. A box does not exist. The payments are at risk of either being lost or stolen. The Montgomery County District Court Facilities Administrator has been charged with correcting this finding. We will either attach a secured box inside the trap door or we will seal and close off the door so that deposits cannot be delivered.

Auditor's Conclusion

During our next examination we will determine if the office complied with our recommendation.

DISTRICT COURT 38-1-25
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

Finding No. 2 - Inadequate Segregation Of Duties

Our examination disclosed that one employee in the district court was responsible for performing the following functions:

- Opening mail.
- Collecting cash, entering collection information into the computer system, and issuing receipts.
- Preparing deposit slips.
- Making the deposit.
- Making voided transaction adjustments.
- Posting disbursements to the disbursement journal.
- Reconciling the bank account.
- Preparing checks.
- Summarizing accounting records.

In addition, deposit slips were not initialed and dated as to who performed the reconciliations and when it was performed.

A good system of internal control requires adequate segregation of duties.

In order to achieve adequate segregation of duties, one employee should not have custody of cash and at the same time maintain the accounting records for the cash, make voided transaction adjustments, and follow up on citations. These duties should be segregated and rotated daily. As an alternative control, someone independent from maintaining the accounting records and handling cash should review the employee's work daily. The reviewer should sign and date the records and documents reviewed. These documents should also include the tickler reports generated by the computer system to investigate why certain citations have not been issued DL-38s or warrants.

Without adequate segregation of duties, the possibility of funds being lost or misappropriated increases significantly.

DISTRICT COURT 38-1-25
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

Finding No. 2 - Inadequate Segregation Of Duties (Continued)

This condition existed because duties involving the handling of cash and maintaining accounting records were not rotated daily.

Recommendation

We recommend that the district court provide for greater segregation of duties within the office. This can be done by cross-training personnel and rotating job functions that include the handling of cash, making voided transaction adjustments, monitoring follow-up procedures on citations, and maintaining the accounting records for the cash. As an alternative and/or additional control, someone independent from the handling of cash and the accounting records should review the employee's work at the end of each day. The reviewer should sign and date the records and documents reviewed.

Management's Response

The Magisterial District Judge responded as follows:

We have already corrected this finding. This office employs three full time staff personnel. Prior to March 28, 2014, one staff member did not drive and could not make the 1.5 mile trip to the bank. A second staff member refused to travel to the bank.

Since March 28th, one person has retired and a new staff member is now employed. A procedure has been implemented so that receipts are recorded by a different person each day/week and a separate person will make the deposit.

Auditor's Conclusion

During our next examination we will determine if the office complied with our recommendation.

DISTRICT COURT 38-1-25
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

Finding No. 3 - 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 45 receipts tested, nine 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 three days.

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.

We also noted that monies that were not deposited on the same day as collected were being held overnight in a locked cabinet. We found that, at times, the monies being held overnight were excessive. Of 30 days tested, there were five days that monies held overnight were excessive. The amount of funds held overnight ranged from \$497.45 to \$3,085.15.

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.

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.

DISTRICT COURT 38-1-25
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

Finding No. 3 - Receipts Were Not Always Deposited On The Same Day As Collected
(Continued)

Management's Response

The Magisterial District Judge responded as follows:

We have already corrected this finding. This office employs three full time staff personnel. Prior to March 28, 2014, one staff member did not drive and could not make the 1.5 mile trip to the bank. A second staff member refused to travel to the bank.

Since March 28th, one person has retired and a new staff member is now employed. A procedure has been implemented so that deposits are made daily even when a person may be off.

Auditor's Conclusion

During our next examination we will determine if the office complied with our recommendation.

DISTRICT COURT 38-1-25
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

Finding No. 4 - Inadequate Arrest Warrant Procedures

Warrants 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.

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 27 instances in which a warrant was required to be issued. Our testing disclosed that nine were not issued timely and five were not issued at all. The time of issuance ranged from 85 days to 1,045 days.

In addition, of 18 warrants required to be returned or recalled, 8 were not returned and 1 was not returned timely. The time of issuance to the time of return was 252 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.

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.

DISTRICT COURT 38-1-25
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

Finding No. 4 - Inadequate Arrest Warrant Procedures (Continued)

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.

The failure to follow warrant procedures could result in uncollected fines and unpunished offenders. Additionally, 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.

Recommendations

We recommend that the district court review the tickler reports for warrants 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.

DISTRICT COURT 38-1-25
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2012

Finding No. 4 - Inadequate Arrest Warrant Procedures (Continued)

Management's Response

The Magisterial District Judge responded as follows:

Warrant returns were not being signed or not completed properly upon return to the court. All court personnel have been re-trained on warrant service procedures to ensure that warrants are returned on a timely basis and that they are signed and completed properly.

A significant backlog had occurred due to improper management of resources and assets. Warrants were not issued timely. A new office manager had been named. She has implemented daily and weekly procedures to ensure the timely issuance of warrants. We have already experienced a significant reduction in caseload backlog and hope that these changes enable us to continue the reeducation of the backlog, as well as, sustain and adequate flow of the caseload.

Auditor's Conclusion

During our next examination we will determine if the office complied with our recommendations.

DISTRICT COURT 38-1-25
MONTGOMERY COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2010 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 James P. Gallagher	Magisterial District Judge
The Honorable Josh Shapiro	Chairman of the Board of Commissioners
The Honorable Stewart J. Greenleaf, Jr.	Controller
Mr. Michael R. Kehs, Esquire	District Court Administrator

This report is a matter of public record and is available online at <http://www.auditorgen.state.pa.us>. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: news@auditorgen.state.pa.us