



**DISTRICT COURT 38-1-24
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 38-1-24, 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:

- Inadequate Internal Controls Over Manual Receipts.
- Evidence Of Authorizing The Disposition Of Citations Was Not Available.
- 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 bulleted deficiency to be a material weakness.

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Independent Auditor's Report (Continued)

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 22, 2014

EUGENE A. DEPASQUALE
Auditor General

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DISTRICT COURT 38-1-24
MONTGOMERY COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Receipts:

Department of Transportation		
Title 75 Fines	\$	292,996
Motor Carrier Road Tax Fines		200
Littering Law Fines		1,673
Child Restraint Fines		538
Department of Revenue Court Costs		264,843
Crime Victims' Compensation Bureau Costs		27,007
Crime Commission Costs/Victim Witness Services Costs		19,319
Domestic Violence Costs		7,066
Department of Agriculture Fines		5,274
Emergency Medical Service Fines		91,153
CAT/MCARE Fund Surcharges		274,812
Judicial Computer System Fees		103,922
Access to Justice Fees		28,666
Criminal Justice Enhancement Account Fees		6,144
Judicial Computer Project Surcharges		27,978
Constable Service Surcharges		12,976
Miscellaneous State Fines and Costs		18,567
		<hr/>
Total receipts (Note 2)		1,183,134
Disbursements to Commonwealth (Note 3)		<hr/> <u>(1,183,134)</u>
Balance due Commonwealth (District Court) per settled reports (Note 4)		-
Examination adjustments		<hr/> -
Adjusted balance due Commonwealth (District Court) for the period January 1, 2009 to December 31, 2012	\$	<hr/> <hr/> <u>-</u>

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, 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	\$ 1,183,134
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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.

5. Magisterial District Judge Serving During Examination Period

Albert J. Augustine served at District Court 38-1-24 for the period January 1, 2009 to December 31, 2012.

DISTRICT COURT 38-1-24
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Finding No. 1 - Inadequate Internal Controls Over Manual Receipts

The Administrative Office of Pennsylvania Courts' (AOPC) policies require computer downtime manual receipts to be issued in the event of a temporary power loss to the district court's computer system. When the computer system is operating again, the computer downtime manual receipt is replaced by an official computer-generated receipt and included in the daily receipts. When the AOPC's policies are not followed, the possibility that funds received by the District Court could be lost or misappropriated increases significantly.

Our examination disclosed that required computer downtime manual receipt procedures were not always followed. Of 25 receipts tested, we noted the following:

- There was one instance in which the computer receipt was not generated after the issuance of the computer downtime manual receipt. The monies were held and returned to the remitter.
- There were three instances in which the computer receipt was not generated timely after the issuance of the corresponding downtime manual receipt. The time lapse from the date of the computer downtime manual receipt to the corresponding computer receipt ranged from 7 days to 21 days.
- The date the computer receipt was generated and the computer-generated receipt number for four computer downtime manual receipts were not recorded on the downtime manual receipts log.
- The docket number for two computer downtime manual receipts were not recorded on the downtime manual receipts log.
- There were five instances in which the computer downtime manual receipt number was not entered into the computer system when the corresponding computer receipt was generated.

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 downtime manual receipts be issued in the event of a temporary power loss to the computer system. When the computer system is not operational, the receipt and log sheet should be filled out for each receipt number and the initials of the employee receiving the payment should be documented on the log sheet. The receipts should be used in numerical order; the log sheet should be filled out using the appropriate receipt number; a copy of that receipt should be given to the remitter; and the second copy of the receipt should be kept, along with the associated log, in a secure location.

DISTRICT COURT 38-1-24
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Finding No. 1 - Inadequate Internal Controls Over Manual Receipts (Continued)

When the computer system is running again, the second copy of the receipt should be attached to the new system-generated receipt and placed in the case file and the date the payment was entered into the system should be documented on the log sheet. Additionally, the Manual requires that when a manual receipt number is issued, the manual receipt number should be entered in the manual receipt number field when creating the computer receipt. This will link the manual receipt to the computer receipt.

Good internal accounting controls ensure that:

- Computer downtime manual receipts are accounted for and maintained.
- All required docket information is recorded on the computer downtime manual receipts log sheet.
- Computer receipts are generated timely after the issuance of the corresponding computer downtime manual receipts.
- Computer downtime manual receipt numbers are entered in the manual receipt number field on the computer when the corresponding computer receipts are generated.

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.

These conditions existed because the district court failed to establish and implement an adequate system of internal controls over computer downtime manual receipts.

Recommendation

We recommend that the district court establish and implement an adequate system of internal controls over computer downtime manual receipts as noted above.

DISTRICT COURT 38-1-24
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Finding No. 1 - Inadequate Internal Controls Over Manual Receipts (Continued)

Management's Response

The Magisterial District Judge responded as follows:

It is the District Court's procedure to limit the use of manual receipts. These receipts will only be issued as needed and will be entered into the system as soon as possible. The use of Manual Receipts will only be on an as needed basis.

Auditor's Conclusion

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

DISTRICT COURT 38-1-24
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Finding No. 2 - Evidence Of Authorizing The Disposition Of Citations Was Not Available

During our examination of the district court's case files, we tested 36 cases with dispositions of not guilty, dismissed, discharged, or withdrawn, and cases that had a guilty plea disposition without an accompanying full payment. There was no evidence in 25 cases that the disposition was authorized by the Magisterial District Judge.

Good internal accounting controls ensure that there is evidence that the disposition on these cases was authorized by the Magisterial District Judge. The failure to follow this procedure increases the risk for funds to be lost or misappropriated.

Adherence to good internal controls would have ensured that there were adequate internal controls over citations.

This condition existed because the office failed to establish and implement an adequate system of internal controls over documenting that disposition was authorized by the Magisterial District Judge.

Recommendation

We recommend that there is evidence that the Magisterial District Judge authorize the disposition of these cases and it is available for examination.

Management's Response

The Magisterial District Judge responded as follows:

The court has reviewed this procedure with the auditor. Judge Augustine will sign all **Non-Traffic Citations** after the completion of payment, disposition, or withdrawal. Judge Augustine will sign all **Traffic Citations** that have been dismissed or withdrawn. The court will continue to vigilantly ensure that this procedure is complete.

Auditor's Conclusion

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

DISTRICT COURT 38-1-24
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Finding No. 3 - 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 47 instances in which a warrant was required to be issued. Our testing disclosed that 14 were not issued timely and 12 were not issued at all. The time of issuance ranged from 77 days to 1,401 days.

In addition, of 24 warrants required to be returned or recalled, 3 were not returned or recalled, and 14 were not returned timely. The time of issuance to the time of return ranged from 210 days to 1,402 days.

Furthermore, we tested 19 instances in which a DL-38 was required to be issued. Our testing disclosed that 12 were not issued timely and 3 were not issued at all. The time of issuance ranged from 61 days to 329 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 38-1-24
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Finding No. 3 - 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 38-1-24
MONTGOMERY COUNTY
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FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Finding No. 3 - 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:

We will continue to take all measures to assure that this is completed in a timelier manner. Each staff member will make a daily effort to work on these lists getting some warrants, DL's and pre-warrants out each day. At times, this may not be met but every opportunity to complete this task daily will be strived for.

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 38-1-24
MONTGOMERY COUNTY
COMMENT
FOR THE PERIOD
JANUARY 1, 2009 TO DECEMBER 31, 2012

Comment - Compliance With Prior Examination Recommendations

During our prior examination, we recommended that the office transmit the Commonwealth's portion of fines and costs as required by the Manual and Section 901 of *The Fiscal Code*.

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

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

Our current examination found that the office substantially complied with our prior examination recommendation. Insignificant instances of noncompliance were verbally communicated to the office.

DISTRICT COURT 38-1-24
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 Albert J. Augustine	Magisterial District Judge
The Honorable Josh Shapiro	Chairman of the Board of Commissioners
The Honorable Stewart J. Greenleaf, Jr.	Controller
Michael R. Kehs, Esquire	Court Administrator

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