



DISTRICT COURT 38-1-20

MONTGOMERY COUNTY

EXAMINATION REPORT

FOR THE PERIOD

JANUARY 1, 2006 TO DECEMBER 31, 2008

## CONTENTS

	<u>Page</u>
Independent Auditor's Report.....	1
Financial Section:	
Statement Of Receipts And Disbursements.....	5
Notes To The Statement Of Receipts And Disbursements.....	6
Findings And Recommendations:	
Finding No. 1 - Inadequate Internal Controls Over The Bank Account.....	7
Finding No. 2 - Initial Costs For Civil Cases Were Not Always Receipted And Deposited Timely .....	9
Finding No. 3 - Inadequate Arrest Warrant And DL-38 Procedures.....	10
Report Distribution .....	13



**Department of the Auditor General  
Commonwealth of Pennsylvania  
Harrisburg, Pennsylvania 17120-0018**

**JACK WAGNER  
AUDITOR GENERAL**

Independent Auditor's Report

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

We have examined the accompanying statement of receipts and disbursements (Statement) of District Court 38-1-20, Montgomery County, Pennsylvania (District Court), for the period January 1, 2006 to December 31, 2008, 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 ended December 31, 2008, 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 The Bank Account.
- Initial Costs For Civil Cases Were Not Always Received And Deposited Timely.
- Inadequate Arrest Warrant And DL-38 Procedures.

Independent Auditor's Report (Continued)

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 two bulleted deficiencies to be material weaknesses.

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

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. Additionally, during our current examination, we noted several weaknesses in the internal controls over the bank account and receipts that need corrective action. These significant deficiencies could result in uncollected fines and unpunished offenders and increase the risk for funds to be lost or misappropriated. The District Court should strive to implement the recommendations and corrective action noted in this examination report.

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.

November 10, 2010

JACK WAGNER  
Auditor General



DISTRICT COURT 38-1-20  
MONTGOMERY COUNTY  
STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2006 TO DECEMBER 31, 2008

Receipts:

Department of Transportation		
Title 75 Fines	\$ 345,484	
Motor Carrier Road Tax Fines	100	
Overweight Fines	300	
Commercial Driver Fines	500	
Littering Law Fines	554	
Child Restraint Fines	630	
Department of Revenue Court Costs	231,432	
Crime Victims' Compensation Bureau Costs	33,210	
Crime Commission Costs/Victim Witness Services Costs	23,799	
Domestic Violence Costs	9,588	
Emergency Medical Service Fines	108,082	
CAT/MCARE Fund Surcharges	338,085	
Judicial Computer System Fees	111,873	
Access to Justice Fees	27,567	
Constable Service Surcharges	11,125	
Miscellaneous State Fines	<u>1,288</u>	
 Total receipts (Note 2)		 \$ 1,243,617
 Disbursements to Commonwealth (Note 3)		 <u>(1,243,617)</u>
 Balance due Commonwealth (District Court) per settled reports (Note 4)		 -
 Examination adjustments		 <u>-</u>
 Adjusted balance due Commonwealth (District Court) for the period January 1, 2006 to December 31, 2008		 <u><u>\$ -</u></u>

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

DISTRICT COURT 38-1-20  
MONTGOMERY COUNTY  
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2006 TO DECEMBER 31, 2008

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	\$ 1,243,617
-----------------------	--------------

4. Balance Due Commonwealth (District Court) For The Period January 1, 2006 To December 31, 2008

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

5. Magisterial District Judge Serving During Examination Period

Benjamin R. Crahalla served at District Court 38-1-20 for the period January 1, 2006 to December 31, 2008.



DISTRICT COURT 38-1-20  
MONTGOMERY COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2006 TO DECEMBER 31, 2008

Finding No. 1 - Inadequate Internal Controls Over The Bank Account

Our examination of the accounting records for the office disclosed the following deficiencies in the internal controls over the bank account:

- Bank reconciliations were not performed timely.
- There were 32 outstanding checks totaling \$1,416, dated from January 22, 2008 to September 28, 2008, that were still outstanding as of December 31, 2008.
- There was a \$1,731 difference between the adjusted bank balance and the adjusted book balance that could not be explained.

A good system of internal controls ensures that:

- Bank statements are reconciled to the book balance on a monthly basis and any discrepancies are immediately investigated and resolved.
- Adequate procedures are established to follow-up on all outstanding checks. If a check is outstanding for 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.
- The ending adjusted bank balance is reconciled with liabilities on a monthly basis and any discrepancies are immediately investigated and resolved. Since the bank account of the office is essentially an escrow account on behalf of the Commonwealth, County, and other participating entities, all available funds on hand should equal unpaid obligations.

Without a good system of internal controls over the bank account, the possibility of funds being lost or misappropriated increases significantly.

These conditions existed because the office failed to establish adequate internal controls over its bank account.

DISTRICT COURT 38-1-20  
MONTGOMERY COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2006 TO DECEMBER 31, 2008

Finding No. 1 - Inadequate Internal Controls Over The Bank Account (Continued)

Recommendation

We recommend that the office establish and implement an adequate system of internal controls over the bank account as noted above.

Management's Response

No formal response was offered at this time.

DISTRICT COURT 38-1-20  
MONTGOMERY COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2006 TO DECEMBER 31, 2008

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 received or deposited at the time of filing. In 22 of 25 civil cases tested, the date of initial filing costs differed from the date monies were received and subsequently deposited. The time lapse from the date of filing to the subsequent receipt date ranged from 8 days to 125 days.

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.”

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

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

Without a good system of internal control over funds received by the office, the potential is increased that funds could 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 civil case collections.

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

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

No formal response was offered at this time.

DISTRICT COURT 38-1-20  
MONTGOMERY COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2006 TO DECEMBER 31, 2008

Finding No. 3 - 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 tested 37 instances in which a warrant was required to be issued. Our testing disclosed that 22 were not issued timely and 9 were not issued at all. The time of issuance ranged from 67 days to 833 days.

In addition, of 28 warrants required to be returned or recalled, 15 were not returned or recalled, and 3 were not returned timely. The time of issuance to the time of return ranged from 226 days to 489 days.

Furthermore, we tested 22 instances in which a DL-38 was required to be issued. Our testing disclosed that 11 were not issued timely and 7 were not issued at all. The time of issuance ranged from 95 days to 753 days.

The Manual establishes the uniform written internal control policies and procedures for all district courts.

**Warrant Issuance Procedures:** The Manual states that on October 1, 1998, new warrant procedures took effect for summary cases. Amendments were made to Pa.R.Crim.P. Rules 430, 431, 454, 455, 456, 460, 461, and 462. To comply with the new changes, the Notice of Impending Warrant (AOPC A418) was created with the purpose of informing the defendant that failure to pay the amount due or to appear for a Payment Determination Hearing will result in the issuance of an arrest warrant. The defendant is also informed that his/her response must be made within ten days of the date of the notice.

DISTRICT COURT 38-1-20  
MONTGOMERY COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2006 TO DECEMBER 31, 2008

Finding No. 3 - 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).

DISTRICT COURT 38-1-20  
MONTGOMERY COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2006 TO DECEMBER 31, 2008

Finding No. 3 - 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 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 and DL-38s.

This finding was cited in our last two audit periods, the most recent ending December 31, 2005.

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 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

No formal response was offered at this time.

Auditor's Conclusion

This is a recurring finding. We strongly recommend that the office comply with our recommendations.

DISTRICT COURT 38-1-20  
MONTGOMERY COUNTY  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2006 TO DECEMBER 31, 2008

This report was initially distributed to:

The Honorable Daniel P. Meuser  
Secretary  
Pennsylvania Department of Revenue

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

The Honorable Cathleen Kelly Rebar	Magisterial District Judge
Michael R. Kehs, Esquire	District Court Administrator
The Honorable Diane Morgan	Controller
The Honorable James R. Matthews	Chairman of the Board of Commissioners

This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, 318 Finance Building, Harrisburg, PA 17120. To view this report online or to contact the Department of the Auditor General, please access our web site at [www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us).