

COMPLIANCE AUDIT

District Court 38-1-06 Montgomery County, Pennsylvania For the Period January 1, 2017 to December 31, 2019

July 2021



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

The Honorable C. Daniel Hassell
Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We have conducted a compliance audit of the District Court 38-1-06, Montgomery County, Pennsylvania (District Court), for the period January 1, 2017 to December 31, 2019, pursuant to the requirements of Section 401(c) of *The Fiscal Code*, 72 P.S. § 401(c).

The objective of the audit was to determine whether all moneys collected on behalf of the Commonwealth have been correctly assessed, reported, and promptly remitted and to provide a report to the Department of Revenue to allow the Department of Revenue to state and settle the District Court's account. Our audit was limited to areas related to the objective identified above and was not conducted, nor was it required to be, in accordance with Government Auditing Standards issued by the Comptroller General of the United States.

The District Court is responsible for establishing and maintaining effective internal controls to provide reasonable assurance of compliance with state laws and regulations applicable to the collection of moneys on behalf of the Commonwealth, including whether they have been correctly assessed, reported, and promptly remitted. The District Court is also responsible for complying with those laws and regulations. It is our responsibility to perform procedures to obtain sufficient, appropriate evidence to the extent necessary to satisfy the audit objective. We believe that our audit provides a reasonable basis for our conclusions.

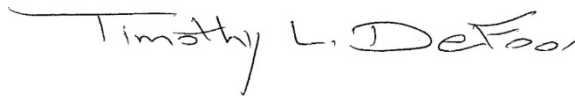
Based on our audit procedures, we conclude that, for the period January 1, 2017 to December 31, 2019, the District Court, in all significant respects, complied with state laws and regulations applicable to the collection of moneys on behalf of the Commonwealth, including whether they have been correctly assessed, reported, and promptly remitted, except as noted in the findings listed below and discussed later in this report:

- Escrow Monies Not Always Disbursed Timely - Recurring.
- Inadequate Arrest Warrant Procedures - Recurring.

This report includes a summary of the District Court's receipts and disbursements of funds collected on behalf of the Commonwealth (summary). We obtained data representing the District Court's receipts and disbursements from the Pennsylvania Department of Revenue, which obtains data from each of the Commonwealth's district courts, and used the data to create the summary in the format required by the Department of Revenue. We also evaluated the accuracy of the data as part of our audit to conclude on the District Court's compliance with certain state laws and regulations as described in the previous paragraph. Any adjustments that we considered necessary based on our audit work are disclosed in the *Audit Adjustments* line of the summary; however, the scope of our audit does not include the issuance of an opinion on the accuracy of the amounts reported in the summary.

The purpose of this report is to determine whether all moneys collected on behalf of the Commonwealth have been correctly assessed, reported and promptly remitted. This report is not suitable for any other purposes.

The contents of this report were discussed with the management of the District Court and, where appropriate, their response has been included in the report. We appreciate the courtesy extended by the District Court 38-1-06, Montgomery County, to us during the course of our audit. If you have any questions, please feel free to contact the Bureau of County Audits at 717-787-1363.

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive style with a long horizontal line extending to the left of the first letter.

Timothy L. DeFoor
Auditor General

June 8, 2021

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DISTRICT COURT 38-1-06
MONTGOMERY COUNTY
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2019

The Department of Auditor General is mandated by Article IV, Section 401(c) of *The Fiscal Code* (Act of April 9, 1929, P.L.343, No. 176), 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.

District Court 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.

Total disbursements during the audit period are comprised as follows:

District Court checks issued to:

Department of Revenue	<u>\$ 1,210,140</u>
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This balance reflects the summary of monthly transmittal reports as settled by the Department of Revenue.

Henry J. Schireson served at District Court 38-1-06 for the period January 1, 2017 to December 31, 2019.

The summary of receipts and disbursements on the following page 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 summary 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.

DISTRICT COURT 38-1-06
MONTGOMERY COUNTY
SUMMARY OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2019

Receipts:

Department of Transportation		
Title 75 Fines	\$	117,449
Overweight Fines		13
Commercial Driver Fines		652
Littering Law Fines		417
Child Restraint Fines		512
Department of Revenue Court Costs		178,721
Crime Victims' Compensation Bureau Costs		5,367
Crime Commission Costs/Victim Witness Services Costs		3,909
Domestic Violence Costs		1,560
Emergency Medical Service Fines		78,967
CAT/MCARE Fund Surcharges		250,442
Judicial Computer System Fees		92,038
Access to Justice Fees		38,831
Criminal Justice Enhancement Account Fees		1,607
Judicial Computer Project Surcharges		82,533
Constable Service Surcharges		8,315
Miscellaneous State Fines and Costs		<u>348,807</u>
 Total receipts		 1,210,140
 Disbursements to Commonwealth		 <u>(1,210,140)</u>
 Balance due Commonwealth (District Court) per settled reports		 -
 Audit adjustments		 <u>-</u>
 Adjusted balance due Commonwealth (District Court) for the period January 1, 2017 to December 31, 2019	 \$	 <u><u>-</u></u>

DISTRICT COURT 38-1-06
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2019

Finding No. 1 - Escrow Monies Not Always Disbursed Timely - Recurring

We cited the issue of escrow monies not always disbursed timely in our prior audit for the period January 1, 2013 to December 31, 2016. Our current audit found that the district court did not correct the issue.

Our audit of the undisbursed funds report indicated that escrow funds collected from December 28, 2006 to October 10, 2018, totaling \$6,327.50, were not disbursed as of December 31, 2019.

This condition existed because the district court failed to review the undisbursed funds report on a monthly basis and take appropriate action as recommended in the prior audit report.

The district court's bank account is essentially an escrow account on behalf of the Commonwealth and other participating parties. The court collects bail, security for motor vehicle trials, and other funds that must be held in escrow until disposition of the case. Once a case has been disposed, funds held in escrow should be transferred to the appropriate account or disbursed immediately.

Good internal accounting controls require that funds be disbursed timely. The failure to follow this procedure could result in monies not being paid to whom they are due.

Without a good system of internal control over funds received by the district court, the possibility of funds being lost or misappropriated increases significantly.

Recommendation

We strongly recommend that the district court review the undisbursed funds report on a monthly basis and take appropriate action and disburse funds to whom they are due.

Management's Response

The Court Administration responded as follows:

The court will fully review its escrow account and ensure that all deposits at issue are fully distributed. Moving forward, the court will distribute all future escrow monies in a timely fashion.

Auditor's Conclusion

This is a recurring finding. We strongly recommend that the district court comply with our recommendation. During our next audit, we will determine if the district court complied with our recommendation.

DISTRICT COURT 38-1-06
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2019

Finding No. 2 - Inadequate Arrest Warrant Procedures - Recurring

We cited the issue of inadequate arrest warrant procedures in our two prior audits, with the most recent being for the period January 1, 2013 to December 31, 2016. Our current audit found that the district court did not correct this issue.

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 32 instances in which a warrant was required to be issued. Our testing disclosed that four were not issued timely, and 18 were not issued at all. The time of issuance ranged from 398 days to 448 days.

In addition, of 14 warrants required to be returned or recalled, seven were not returned or recalled, and three were not returned timely. The time of issuance to the time of return ranged from 188 days to 816 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. 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 38-1-06
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2019

Finding No. 2 - Inadequate Arrest Warrant Procedures - Recurring (Continued)

According to Pa.R.Crim.P. 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 120 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.

These conditions existed because the district court failed to review the tickler and warrant control reports as recommended in the two prior audits. 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.

DISTRICT COURT 38-1-06
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2019

Finding No. 2 - Inadequate Arrest Warrant Procedures - Recurring (Continued)

Recommendations

We strongly 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 120 days for summary traffic and non-traffic cases as recommended by the Manual.

Management's Response

The Court Administration responded as follows:

The court will review tickler reports and take the appropriate action as dictated by the Magisterial District Judge Automated Office Clerical Procedures Manual. Warrant control reports will likewise be monitored in order to notify police or other officials to return unserved warrants after 120 days. It is understood that this is a recurring issue and will be addressed immediately.

Auditor's Conclusion

This is a recurring finding. It is imperative that the district court comply with our recommendations. During our next audit, we will determine if the district court complied with our recommendations.

DISTRICT COURT 38-1-06
MONTGOMERY COUNTY
SUMMARY OF PRIOR AUDIT RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2019

Summary Of Prior Audit Recommendations

During our prior audit, we recommended that the district court:

- Review the undisbursed funds report on a monthly basis and take appropriate action and disburse funds to whom they are due.
- Establish and implement an adequate system of internal controls over computer downtime manual receipts.
- Review the tickler reports for warrants and DL-38s daily and take appropriate action as required by the Manual. We further recommended that the court review warrant control reports and notify police or other officials to return warrants that are unserved for 60 days (120 days as of December 2016) for summary traffic and non-traffic cases as recommended by the Manual.

During our current audit, we noted that the district court complied with our second bulleted recommendation. However, the district court did not comply with our first and third bulleted recommendations. Please see the current year Finding Nos. 1 and 2 for additional information.

DISTRICT COURT 38-1-06
MONTGOMERY COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2019

This report was initially distributed to:

The Honorable C. Daniel Hassell
Secretary
Pennsylvania Department of Revenue

The Honorable H. Geoffrey Moulton, Jr.
Court Administrator of Pennsylvania
Supreme Court of Pennsylvania
Administrative Office of Pennsylvania Courts

The Honorable Henry J. Schireson
Magisterial District Judge

The Honorable Valerie A. Arkoosh
Chairperson of the Board of Commissioners

The Honorable Karen Sanchez
Controller

Mr. John E. Savoth, Esquire
Deputy Court Administrator, Special Courts

This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.