

COMPLIANCE AUDIT

District Court 38-1-13
Montgomery County, Pennsylvania
For the Period
January 1, 2018 to December 31, 2020

November 2021



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



**Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
Facebook: Pennsylvania Auditor General
Twitter: @PAAuditorGen
www.PaAuditor.gov**

**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 38-1-13, Montgomery County, Pennsylvania (District Court), for the period January 1, 2018 to December 31, 2020, 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.

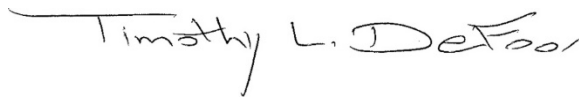
Based on our audit procedures, we conclude that, for the period January 1, 2018 to December 31, 2020, the District Court, in all significant respects, complied with state laws and regulations applicable to the collection of moneys on behalf of the Commonwealth, including whether they have been correctly assessed, reported, and promptly remitted, except as noted in the finding listed below and discussed later in this report:

- 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 38-1-13, 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.

October 13, 2021

Timothy L. DeFoor
Auditor General

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DISTRICT COURT 38-1-13
MONTGOMERY COUNTY
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

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>\$ 872,375</u> |
|-----------------------|-------------------|

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

Francis J. Bernhardt served at District Court 38-1-13 for the period January 1, 2018 to December 31, 2020.

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 38-1-13
MONTGOMERY COUNTY
SUMMARY OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

Receipts:

| | | |
|---|--------|----------------------|
| Department of Transportation | | |
| Title 75 Fines | \$ | 157,566 |
| Motor Carrier Road Tax Fines | | 25 |
| Overweight Fines | | 3,067 |
| Littering Law Fines | | 262 |
| Child Restraint Fines | | 1,066 |
| Department of Revenue Court Costs | | 128,309 |
| Crime Victims' Compensation Bureau Costs | | 11,586 |
| Crime Commission Costs/Victim Witness Services Costs | | 8,320 |
| Domestic Violence Costs | | 3,285 |
| Emergency Medical Service Fines | | 53,540 |
| CAT/MCARE Fund Surcharges | | 152,472 |
| Judicial Computer System Fees | | 57,267 |
| Access to Justice Fees | | 29,957 |
| Criminal Justice Enhancement Account Fees | | 3,957 |
| Judicial Computer Project Surcharges | | 80,837 |
| Constable Service Surcharges | | 9,483 |
| Miscellaneous State Fines and Costs | | <u>171,376</u> |
| Total receipts | | 872,375 |
| Disbursements to Commonwealth | | <u>(872,375)</u> |
| Balance due Commonwealth (District Court) per settled reports | | - |
| Audit adjustments | | <u>-</u> |
| Adjusted balance due Commonwealth (District Court) for the period January 1, 2018 to December 31, 2020 | \$ | <u><u>-</u></u> |

DISTRICT COURT 38-1-13
MONTGOMERY COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

Finding - Inadequate Arrest Warrant Procedures - Recurring

We cited the issue of inadequate arrest warrant procedures in the previous audit for the period January 1, 2013 to December 31, 2017. 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 35 instances in which a warrant was required to be issued. Our testing disclosed that 13 were not issued.

In addition, of 21 warrants required to be returned or recalled, nine were not returned or recalled, and two were not returned timely. The time of issuance to the time of return ranged from 303 days to 611 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 38-1-13
MONTGOMERY COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

Finding - 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 reports and the warrant control reports as recommended in the prior audit report. 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 38-1-13
MONTGOMERY COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

Finding - 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 Magisterial District Court Deputy Court Administrator 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. These issues will be addressed immediately.

Auditor's Conclusion

This is a recurring finding. It is imperative that the district court comply with our recommendations. Failure to implement these procedures increases the potential for funds to be lost or misappropriated. During our next audit, we will determine if the district court complied with our recommendations.

DISTRICT COURT 38-1-13
MONTGOMERY COUNTY
SUMMARY OF PRIOR AUDIT RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

Summary Of Prior Audit Recommendations

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

- Establish and implement an adequate system of internal controls over computer downtime manual receipts.
- Review the tickler reports for warrants 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 first bulleted recommendation. However, the district court did not comply with our second bulleted recommendation. Please see the current year finding for additional information.

DISTRICT COURT 38-1-13
MONTGOMERY COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2018 TO DECEMBER 31, 2020

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 Francis J. Bernhardt
Magisterial District Judge

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

The Honorable Karen Sanchez
Controller

Mr. Michael R. Kehs, Esquire
District Court Administrator

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.