

ATTESTATION ENGAGEMENT

District Court 38-1-25
Montgomery County, Pennsylvania
For the Period
January 1, 2013 to December 31, 2016

October 2018



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 C. Daniel Hassell
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, 2013 to December 31, 2016, 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 presenting this Statement in accordance with the criteria set forth in Note 1. 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. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Statement is presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the statement of receipts and disbursements. The nature, timing and extent of the procedures selected depend on our judgement, including an assessment of the risks of material misstatement of the Statement, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide 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, for the period January 1, 2013 to December 31, 2016, is presented in accordance with the criteria set forth in Note 1, in all material respects.

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.

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. 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.

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. Given these limitations, during our engagement we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified. We did identify certain deficiencies in internal control, described in the findings listed below, that we consider to be significant deficiencies:

- Unsecured Payment Drop-Off Utilized By The District Court - Recurring.
- Inadequate Arrest Warrant And DL-38 Procedures - Recurring.

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*.

The two examination findings contained in this report cite conditions that existed in the operation of the District Court during the previous engagement period and were not corrected during the current examination period. The District Court should strive to implement the recommendations and corrective actions noted in this report.

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.

We appreciate the courtesy extended by the 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

September 13, 2018

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DISTRICT COURT 38-1-25
MONTGOMERY COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Receipts:

Department of Transportation		
Title 75 Fines	\$	153,936
Overweight Fines		600
Commercial Driver Fines		52
Littering Law Fines		247
Child Restraint Fines		1,050
Department of Revenue Court Costs		194,747
Crime Victims' Compensation Bureau Costs		25,090
Crime Commission Costs/Victim Witness Services Costs		17,867
Domestic Violence Costs		6,851
Emergency Medical Service Fines		84,261
CAT/MCARE Fund Surcharges		252,370
Judicial Computer System Fees		92,036
Access to Justice Fees		27,149
Criminal Justice Enhancement Account Fees		6,163
Judicial Computer Project Surcharges		44,255
Constable Service Surcharges		10,427
Miscellaneous State Fines and Costs		<u>337,784</u>
 Total receipts (Note 2)		 1,254,885
 Disbursements to Commonwealth (Note 3)		 <u>(1,254,885)</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, 2013 to December 31, 2016	 \$	 <u><u>-</u></u>

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, 2013 TO DECEMBER 31, 2016

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	<u>\$ 1,254,885</u>
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4. Balance Due Commonwealth (District Court) For The Period January 1, 2013 To December 31, 2016

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, 2013 to December 31, 2016.

DISTRICT COURT 38-1-25
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

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

We cited the issue unsecured payment drop-off utilized by the district court in the prior examination for the period January 1, 2010 to December 31, 2012. Our current examination found that the district court once again did not correct this issue.

Our examination disclosed that monies are being dropped off after office hours and on weekends in the mail slot in the door of 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.

This condition existed because the office failed to establish and implement an adequate system of internal controls over funds collected through the mail slot as recommended in the prior examination report.

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 district court, 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.

DISTRICT COURT 38-1-25
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

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

Recommendations

We strongly recommend that the district court take measures to ensure that monies are not dropped off after hours and on weekends in the mail slot in the door of 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.

Management's Response

The Magisterial District Judge responded as follows:

Please be advised that District Court 38-1-25 accepts the finding and will modify its procedures regarding the use of the drop box at its court facility. It will place the requested sign that "No cash is allowed" and stop the procedure of receiving U.S. Mail through the same drop box. Finally, it will ensure that the box can be locked and secured until court employees can empty its contents.

Auditor's Conclusion

This is a recurring finding. It is imperative that the district court take the necessary steps to ensure that funds are protected from loss or misappropriation. During our next examination, we will determine if the district court complied with our recommendations.

DISTRICT COURT 38-1-25
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Finding No. 2 - Inadequate Arrest Warrant And DL-38 Procedures - Recurring

We cited the issue of inadequate arrest warrant and DL-38 procedures in the prior examination for the period January 1, 2010 to December 31, 2012. Our current examination found that the district court 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.

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 timely. We tested 43 instances in which a warrant was required to be issued in a timely manner. Our testing disclosed that 12 were not issued timely. The time of issuance ranged from 75 days to 244 days.

In addition, of 43 warrants required to be returned or recalled, 16 were not returned or recalled, and 12 were not returned timely. The time of issuance to the time of return ranged from 203 days to 694 days.

Furthermore, we tested 16 instances in which a DL-38 was required to be issued. Our testing disclosed that 5 were not issued timely. The time of issuance ranged from 125 days to 176 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 38-1-25
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Finding No. 2 - Inadequate Arrest Warrant And DL-38 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 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. §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 38-1-25
MONTGOMERY COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Finding No. 2 - Inadequate Arrest Warrant And DL-38 Procedures - Recurring (Continued)

In addition, 75 Pa.C.S. §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.

Inadequate arrest warrant procedures existed because the district court failed to establish and implement adequate arrest warrant procedures as recommended in the prior examination report.

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 (120 days effective December 2016) for summary traffic and non-traffic cases as recommended by the Manual.

Management's Response

The Magisterial District Judge responded as follows:

District Court 38-1-25 accepts the finding and will modify its procedures regarding arrest warrants and DL-38 forms. 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.

Auditor's Conclusion

We appreciate the district court's efforts to correct these issues. This is a recurring finding. It is imperative that the district court take the necessary steps to ensure that fines are collected and offenders are punished, and reduce the risk that funds are lost or misappropriated. During our next examination, we will determine if the district court complied with our recommendations.

DISTRICT COURT 38-1-25
MONTGOMERY COUNTY
SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

Summary Of Prior Examination Recommendations

During our prior examination, we recommended 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.
- 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.
- Deposit all receipts at the end of each day as required by good internal accounting controls and the *Magisterial District Judge Automated Office Clerical Procedures Manual*.
- Review the tickler reports for warrants daily and take appropriate action as required by the *Magisterial District Judge Automated Office Clerical Procedures 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 recommended by the *Magisterial District Judge Automated Office Clerical Procedures Manual*.

During our current examination, we noted that the office complied with our second and third bulleted recommendations. However, the office did not comply with our first and last bulleted recommendations. Please see the current year Findings No. 1 and 2 for additional information.

DISTRICT COURT 38-1-25
MONTGOMERY COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2013 TO DECEMBER 31, 2016

This report was initially distributed to:

The Honorable C. Daniel Hassell
Secretary
Pennsylvania Department of Revenue

The Honorable Thomas B. Darr
Court Administrator of Pennsylvania
Supreme Court of Pennsylvania
Administrative Office of Pennsylvania Courts

The Honorable James P. Gallagher
Magisterial District Judge

The Honorable Valerie Arkoosh
President/Chairperson of the Board of Commissioners

The Honorable Karen Sanchez
Controller

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.