

COMPLIANCE AUDIT

District Court 32-2-37
Delaware County, Pennsylvania
For the Period
January 1, 2019 to December 31, 2022

June 2024



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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TIMOTHY L. DEFOOR
AUDITOR GENERAL

The Honorable Pat Browne
Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We have conducted a compliance audit of the District Court 32-2-37, Delaware County, Pennsylvania (District Court), for the period January 1, 2019 to December 31, 2022, 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 the district court complied with state laws, regulations, and Administrative Office of Pennsylvania Courts (AOPC) policies and administrative procedures related to the collection of moneys on behalf of the Commonwealth, including whether moneys collected on behalf of the Commonwealth have been correctly assessed, reported, and promptly remitted.

The procedures we performed are summarized below:

- Obtained data from the AOPC and the Pennsylvania Department of Revenue and determined whether:
 - Amounts provided by the AOPC match amounts received by the Department of Revenue.
 - The district court's distributions to the state agree with the data provided by the Department of Revenue.
- Compared collections by category of fines, fees, and surcharges for each year in the audit period to prior year collections and determined the reason(s) for any large or unusual variances.
- Evaluated data related to cases without collections or adjustments to fines, fees, or surcharges and, if considered necessary, evaluated selected cases to determine whether such cases were handled appropriately.
- Obtained an understanding of internal controls related to the audit objective.
- Determined the adequacy of the design and operating effectiveness of internal controls we considered significant to the audit objective.
- Evaluated deposits of collections for accuracy and timeliness.
- Determined whether disbursements were accurate.
- Determined whether manual receipts were accurate and properly recorded.

- Determined whether voided receipts were necessary and proper.
- Reviewed selected cases to determine if the district court properly assessed, collected, and recorded all applicable fines, costs, fees, and surcharges.
- Determined whether the court complied with laws, regulations, and AOPC procedures related to the issuance and returns or warrants, collections related to warrants, and accounting for collections in the AOPC computer system.

Our audit was limited to the areas 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.

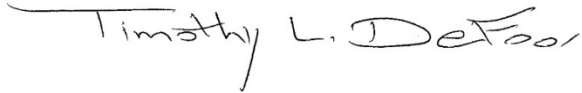
The district court is responsible for establishing and maintaining effective internal controls to provide reasonable assurance of compliance with state laws and regulations applicable to the collection of moneys on behalf of the Commonwealth, including whether they have been correctly assessed, reported, 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, 2019 to December 31, 2022, the district court, in all significant respects, complied with state laws, regulations, and AOPC policies and administrative procedures related to the collection of moneys on behalf of the Commonwealth, except as noted in the finding listed below and discussed later in this report:

- Inadequate Arrest Warrant And DL-38 Procedures - Recurring.

This report includes a summary of the district court's receipts and disbursements of funds collected on behalf of the Commonwealth (summary), which the Department of Revenue may use to state and settle the district court's account. 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. Other than any adjustments that we considered necessary based on our audit work as disclosed in the *Audit Adjustments* line of the summary, nothing came to our attention to indicate inaccuracies in the amounts included in the summary.

The contents of this report were discussed with the District Court's management. We appreciate the courtesy extended to us by the Delaware County District Court 32-2-37 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 horizontal line above the first few letters.

Timothy L. DeFoor
Auditor General
May 21, 2024

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DISTRICT COURT 32-2-37
DELAWARE COUNTY
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2022

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>\$ 621,736</u>
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This balance reflects the summary of monthly transmittal reports as settled by the Department of Revenue.

Leonard V. Tenaglia served at District Court 32-2-37 for the period January 1, 2019 to January 3, 2020.

Tammi L. Forbes served at District Court 32-2-37 for the period January 4, 2020 to December 31, 2022.

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 32-2-37
DELEWARE COUNTY
SUMMARY OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2022

Receipts:

Department of Transportation		
Title 75 Fines	\$	87,029
Littering Law Fines		74
Child Restraint Fines		445
Department of Revenue Court Costs		168,903
Crime Victims' Compensation Bureau Costs		10,768
Crime Commission Costs/Victim Witness Services Costs		8,042
Domestic Violence Costs		2,756
Emergency Medical Service Fines		24,444
CAT/MCARE Fund Surcharges		75,973
Judicial Computer System Fees		50,149
Access to Justice Fees		31,022
Criminal Justice Enhancement Account Fees		8,049
Judicial Computer Project Surcharges		95,916
Constable Service Surcharges		25,007
Miscellaneous State Fines and Costs		<u>33,159</u>
 Total receipts		 621,736
 Disbursements to Commonwealth		 <u>(621,736)</u>
 Balance due Commonwealth (District Court) per settled reports		 -
 Audit adjustments		 <u>-</u>
 Adjusted balance due Commonwealth (District Court) for the period January 1, 2019 to December 31, 2022	 \$	 <u><u>-</u></u>

DISTRICT COURT 32-2-37
DELAWARE COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2022

Finding - Inadequate Arrest Warrant And DL-38 Procedures - Recurring

We cited the issue of inadequate arrest warrant and DL-38 procedures in our six prior audits, with the most recent being for the period January 1, 2016 to December 31, 2018. Our current audit found that the court 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 or recall warrants when required.

We tested 38 instances in which a warrant was required to be issued under Pa.R.Crim.P. 430(b)(1). Our testing disclosed that ten were not issued timely and 24 were not issued at all. The time of issuance ranged from 70 days to 1,113 days.

We also tested six instances in which a warrant may be issued under Pa.R.Crim.P. 430(b)(3). Our testing disclosed that three were not issued timely and three were not issued at all. The time of issuance ranged from 583 days to 783 days. These results do not include instances in which the Magisterial District Judge recently ordered a payment determination hearing, sentenced the defendant to jail time in lieu of payment, or sentenced the defendant to perform community service.

In addition, of 17 warrants required to be returned or recalled, 12 were not returned or recalled, and one was not returned timely. The time of issuance to the time of return was 930 days.

Lastly, we tested, 21 instances in which a DL-38 was required to be issued. Our testing disclosed that seven DL-38s were not issued timely. The time of issuance ranged from 68 days to 332 days.

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

DISTRICT COURT 32-2-37
DELAWARE COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2022

Finding - Inadequate Arrest Warrant And DL-38 Procedures - Recurring (Continued)

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.

According to Pa.R.Crim.P. 430(b)(1), 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.

According to Pa.R.Crim.P. 430 (b)(3), 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.

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.

DISTRICT COURT 32-2-37
DELAWARE COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2022

Finding - Inadequate Arrest Warrant And DL-38 Procedures - Recurring (Continued)

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 15 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).

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 district court stated that the current office manager was new to the office, and they are currently working on the backlog of cases created by the Covid pandemic closings.

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. Therefore, it is considered best business practice to issue warrants that fall under Pa.R.Crim.P. 430(b)(3) when other actions are not taken by the Magisterial District Judge to compel compliance by the defendant, such as ordering a payment determination hearing, sentencing to jail time in lieu of payment, or sentencing to perform community service.

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

DISTRICT COURT 32-2-37
DELAWARE COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2022

Finding - Inadequate Arrest Warrant And DL-38 Procedures - Recurring (Continued)

Management's Response

To address this issue, the Court Coordinator and general clerks have been asked to draft correspondence to the constables within 120 days of issuance of all summary warrants seeking to have those constables return unserved warrants for cancellation or reissue after judicial review. Summary warrants, in which a constable is unable to serve, will be returned to the office and recorded as unserved in the system within 120 days of issuance. The Court Coordinator and clerks handling traffic/non-traffic cases will be instructed to utilize the Warrant Management Reports in the MDJS to identify those summary warrants needed to be recalled. Finally, these warrant reports will be reviewed on a weekly basis to determine those that need action taken. The Delaware County Administrative Office for Magisterial District Judges will also assist in monitoring these warrant requirements. The Court Coordinator and general clerks will be encouraged to review the warrant and DL-38 lists daily to ensure timely processing. Case Management Summary Reports (#5800) will also be reviewed on a regular basis.

Please note that approximately ten months of the audit period includes the beginning of the COVID-19 pandemic. During these several months, over half of our countywide Magisterial District Court staff was furloughed. As such, we have incurred backlogs in practically every aspect of court functions. We are currently working to resolve these backlogs and hope to resolve them soon. We also endeavor to preempt such deficiencies in the future by routinely monitoring reports and addressing any areas of concern.

Auditor's Conclusion

This is a recurring finding. It is imperative that the district court take the necessary steps to ensure that the fines are collected, offenders are punished and reduce the risk that funds are lost or misappropriated. Please note that we did not include any warrant or DL-38 exceptions that occurred during the pandemic in the finding. During our next audit, we will determine if the district court complied with our recommendations.

DISTRICT COURT 32-2-37
DELAWARE COUNTY
SUMMARY OF PRIOR AUDIT RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2022

Summary Of Prior Audit Recommendations

During our prior audit, we recommended 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 recommended 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.

During our current audit, we noted that the district did not comply with our recommendations. Please see the current year finding for additional information.

DISTRICT COURT 32-2-37
DELAWARE COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2022

This report was initially distributed to:

The Honorable Pat Browne
Secretary
Pennsylvania Department of Revenue

The Honorable Andrea Tuominen
Court Administrator of Pennsylvania
Supreme Court of Pennsylvania
Administrative Office of Pennsylvania Courts

The Honorable Tammi L. Forbes
Magisterial District Judge

The Honorable Dr. Monica Taylor
Chairperson of County Council

The Honorable Joanne Phillips, Esq.
Controller

Mr. Gerald C. Montella, Esq.
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.