

# COMPLIANCE AUDIT

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District Court 41-3-03  
Perry County, Pennsylvania  
For the Period  
January 1, 2018 to December 31, 2021

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May 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 41-3-03, Perry County, Pennsylvania (District Court), for the period January 1, 2018 to December 31, 2021, 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.

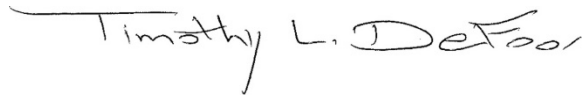
Based on our audit procedures, we conclude that, for the period January 1, 2018 to December 31, 2021, the District Court, in all significant respects, complied with state laws and regulations applicable to the collection of moneys on behalf of the Commonwealth, including whether they have been correctly assessed, reported, and promptly remitted, except as noted in the findings listed below and discussed later in this report:

- Inadequate Internal Controls Over Receipts-Recurring.
- 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). 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 District Court's management. We appreciate the courtesy extended to us by the Perry County District Court 41-3-03 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  
February 28, 2024

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DISTRICT COURT 41-3-03  
PERRY COUNTY  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2021

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>\$ 1,394,765</u>
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This balance reflects the summary of monthly transmittal reports as settled by the Department of Revenue.

Daniel McGuire served at District Court 41-3-03 for the period January 1, 2018 to August 28, 2018.

Various Senior Magisterial District Judges served at District Court 41-3-03 for the period August 29, 2018 to December 31, 2021.

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 41-3-03  
PERRY COUNTY  
SUMMARY OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2021

Receipts:

Department of Transportation		
Title 75 Fines	\$	409,347
Motor Carrier Road Tax Fines		150
Commercial Driver Fines		3,000
Littering Law Fines		1,969
Child Restraint Fines		1,657
Department of Revenue Court Costs		181,892
Crime Victims' Compensation Bureau Costs		17,863
Crime Commission Costs/Victim Witness Services Costs		12,797
Domestic Violence Costs		4,475
Department of Agriculture Fines		8,364
Emergency Medical Service Fines		86,131
CAT/MCARE Fund Surcharges		280,923
Judicial Computer System Fees		79,718
Access to Justice Fees		42,484
Criminal Justice Enhancement Account Fees		4,682
Judicial Computer Project Surcharges		116,551
Constable Service Surcharges		11,230
Miscellaneous State Fines and Costs		131,532
		<hr/>
Total receipts		1,394,765
Disbursements to Commonwealth		<hr/> (1,394,765)
Balance due Commonwealth (District Court) per settled reports		-
Audit adjustments		<hr/> -
Adjusted balance due Commonwealth (District Court) for the period January 1, 2018 to December 31, 2021	\$	<hr/> <hr/> -

DISTRICT COURT 41-3-03  
PERRY COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2021

**Finding No. 1 - Inadequate Internal Controls Over Receipts-Recurring**

We cited the issue of inadequate internal controls over receipts in the prior audit for the period January 1, 2015 to December 31, 2017. Our current audit found that this district court did not correct this issue.

Our audit of the accounting records for the office disclosed the following deficiencies in the internal controls over receipts. Of 60 receipts tested, we noted the following:

- Eight receipts were not deposited on the same day as collected. The time lapse from the date of receipt to the subsequent date of deposit ranged from two days to seven days.
- There were 52 instances in which the office copy of the bank deposit slip was not validated by the bank. The district court received a validated receipt from the bank, but this only confirmed the total amount deposited and not the actual makeup of the deposit (i.e. cash and check mix).

A good system of internal controls ensures that:

- All monies collected are deposited intact at the bank at the end of every day.
- The amount of each check and the total amount of cash deposited are identified on the deposit slip. The office copy of each deposit should be brought to the bank to be validated. If the bank cannot validate the deposit slip, the district court should obtain a deposit ticket from the bank that validates total cash and the total deposit. After the district court receives the validation from the bank, it should be reconciled to the receipts by someone other than the person preparing or making the deposit.

Court staff stated that the bank they used previously was 20 miles away from the district court and due to the distance, they were advised not to go to the bank every day. Also, court staff stated that they were unaware that the receipt received from the bank was inadequate.

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

**Recommendation**

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

DISTRICT COURT 41-3-03  
PERRY COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2021

**Finding No. 1 - Inadequate Internal Controls Over Receipts-Recurring (Continued)**

Management Response

The Magisterial District Judge responded as follows:

We have since changed banks and now are in compliance with denominations being created separately.

Auditor's Conclusion

We appreciate the district court's effort to correct this issue. This is a recurring finding. During our next audit, we will determine if the district court complied with our recommendation.



DISTRICT COURT 41-3-03  
PERRY COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2021

**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 audit for the period January 1, 2015 to December 31, 2017. Our current audit found that this district 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 warrants when required.

We tested 41 instances in which a warrant was required to be issued under Pa.R.Crim.P. 430(b)(1). Our testing disclosed that one was not issued, and one was not issued timely. The time of issuance was 123 days.

We also tested 26 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. The time of issuance ranged from 67 days to 865 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 66 warrants required to be returned or recalled, two were not returned or recalled, and 31 were not returned timely. The time of issuance to the time of return ranged from 192 days to 615 days.

Furthermore, we tested 33 instances in which a DL-38 was required to be issued. Our testing disclosed that one was not issued.

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

DISTRICT COURT 41-3-03  
PERRY COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2021

**Finding No. 2 - 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 41-3-03  
PERRY COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2021

**Finding No. 2 - 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 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).

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.

Court staff stated that the court has been short staffed, very busy and not properly trained on how to issue warrants. Additionally, the court indicated that during this time constables were not properly following up and returning warrants in a timely fashion. 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.

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. 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 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 41-3-03  
PERRY COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2021

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

Management's Response

No formal response was offered at this time.

Auditor Conclusion

This is a recurring finding. It is imperative that the district court take all corrective actions necessary to comply with our recommendations. The risk of uncollected fines and unpunished offenders continues to exist as long as these deficiencies continue. Furthermore, Magisterial District Judges have the power to choose the independent contractors who will perform services on behalf of the court. They also have the authority to dictate minimum standards of satisfactory performance, so long as said standards are not inconsistent with pertinent statutes and Rules of Court. Such standards should include the requirement that constables or other third parties return warrants when requested. During our next audit, we will determine if the district court complied with our recommendations.

DISTRICT COURT 41-3-03  
PERRY COUNTY  
SUMMARY OF PRIOR AUDIT RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2021

Summary Of Prior Audit Recommendations

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

- Initiate procedures to ensure that all cases are properly filed and contain appropriate documents as outlined in the Manual.
- Establish and implement an adequate system of internal controls over receipts.
- 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. Returned warrants should be filled out in their entirety to include service performed and defendant signature and maintained in the case file.
- Require evidence that the Magisterial District Judge authorized the disposition of cases and that it is available for examination.

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

DISTRICT COURT 41-3-03  
PERRY COUNTY  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2018 TO DECEMBER 31, 2021

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 Richard C. Gibney**  
Magisterial District Judge

**The Honorable Brian S. Allen**  
Chairperson of the Board of Commissioners

**Ms. Christina L. Zook**  
District Court Administrator

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://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](mailto:news@PaAuditor.gov).