

COMPLIANCE AUDIT

District Court 22-3-02
Wayne County, Pennsylvania
For the Period
January 1, 2017 to December 31, 2020

May 2022



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 22-3-02, Wayne County, Pennsylvania (District Court), for the period January 1, 2017 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.

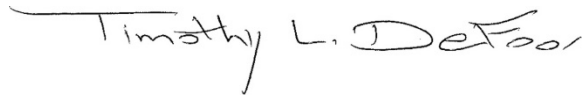
Based on our audit procedures, we conclude that, for the period January 1, 2017 to December 31, 2020, the District Court, in all significant respects, complied with state laws and regulations applicable to the collection of moneys on behalf of the Commonwealth, including whether they have been correctly assessed, reported, and promptly remitted, except as noted in the finding listed below and discussed later in this report:

- Inadequate Arrest Warrant And DL-38 Procedures.

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 22-3-02, Wayne 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
March 22, 2022

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DISTRICT COURT 22-3-02
WAYNE COUNTY
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2019 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>\$ 717,138</u>
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This balance reflects the summary of monthly transmittal reports as settled by the Department of Revenue.

Linus H. Myers served at District Court 22-3-02 for the period January 1, 2017 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 22-3-02
WAYNE COUNTY
SUMMARY OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2020

Receipts:

Department of Transportation		
Title 75 Fines	\$	182,093
Motor Carrier Road Tax Fines		300
Overweight Fines		3,500
Commercial Driver Fines		2,200
Littering Law Fines		900
Child Restraint Fines		470
Department of Revenue Court Costs		113,740
Crime Victims' Compensation Bureau Costs		17,325
Crime Commission Costs/Victim Witness Services Costs		12,478
Domestic Violence Costs		4,727
Department of Agriculture Fines		3,568
Emergency Medical Service Fines		33,080
CAT/MCARE Fund Surcharges		85,962
Judicial Computer System Fees		43,933
Access to Justice Fees		23,728
Criminal Justice Enhancement Account Fees		5,158
Judicial Computer Project Surcharges		71,006
Constable Service Surcharges		5,497
Miscellaneous State Fines and Costs		<u>107,473</u>
 Total receipts		 717,138
 Disbursements to Commonwealth		 <u>(717,138)</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, 2020	 \$	 <u><u>-</u></u>

DISTRICT COURT 22-3-02
WAYNE COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2020

Finding - Inadequate Arrest Warrant And DL-38 Procedures

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 29 instances in which a warrant was required to be issued. Our testing disclosed that 11 were not issued timely and eight were not issued at all. The time of issuance ranged from 64 days to 334 days.

In addition, of 21 warrants required to be returned or recalled, two were not returned or recalled, and 11 were not returned timely. The time of issuance to the time of return ranged from 235 days to 1,203 days.

Furthermore, we tested 19 instances in which a DL-38 was required to be issued. Our testing disclosed that three were not issued timely and one was not issued at all. The time of issuance ranged from 68 days to 156 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 22-3-02
WAYNE COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2020

Finding - Inadequate Arrest Warrant And DL-38 Procedures (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.

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).

DISTRICT COURT 22-3-02
WAYNE COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2020

Finding - Inadequate Arrest Warrant And DL-38 Procedures (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.

Recommendations

We 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.

Management's Response

The Magisterial District Judge responded as follows:

Three points I wish to make in regard to the Inadequate Warrant Procedures finding:

1. 2020 is the year cited for the majority of areas of inadequacy. That year coincided with the Covid pandemic which altered procedures considerably. Orders for the Pennsylvania Supreme Court as well as local orders from the President Judge resulted in our withholding the issuance of warrants, adjusting payment plans to avoid the possibility of warrant issuance, delaying the beginning of payment plans and, in the rare occasions, when clients were picked up by police, continuances of the expected process was granted all in order to lessen the economic impact affecting the ability to pay. These clients are normally hard pressed to make payments but with business closures and layoffs, the ability to make regular payments became even more difficult, thus resulting in the reduction of issuances or reissuances.

In the future, DL-38s and warrants will be issued in a timely manner.

DISTRICT COURT 22-3-02
WAYNE COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2017 TO DECEMBER 31, 2020

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

Management's Response (Continued)

2. In this district, state and local borough police do not readily pursue cost and fine warrants. During this audit period, one constable worked very part time in the enforcement of warrants, as such, many warrants went unattended by both the constable and this magistrate. So, pragmatically, warrants were not being served, unless a client came in on new charges and was brought before the magistrate. The staff was very conscientious in reviewing county prison rosters, Facebook postings, death listings, etc. to ascertain whereabouts and jail time compensation was used whenever a client owing a debt found him/herself in the county prison. I expect the enforcement of warrants will increase with the addition of two new certified constables who began employment with the office beginning in January 2022.

Now that Covid restrictive rules have relaxed, future increased attention will be paid to the timely return of warrants and DL-38s. If future restrictions return, we will seek court orders for the mandated county directives.

3. The warrant process, in my opinion, is rather convoluted and is not all that cost/results effective. Even though warrants are recalled, they remain active on the JNET system. When a client is brought in, a new payment plan is devised. Two missed payments later, the process begins again – dunning notice, pre-warrant, warrant enforcement, service or recall and repeats itself numerous times. I was very reluctant to use jail time compensation unless the client agreed. Although not procedurally correct, I did not agree with detaining someone on the basis of owing costs, which are arbitrarily imposed by statute, with no relation to the offense committed. Rather than impose taxes on law-abiding taxpayers to fund the judicial computer project of constable training or emergency management services, the legislature finds it easier to assess offender (who's going to object). Smacks of debtors' prison.

Auditor's Conclusion

We recognize the district court's explanation of these issues and the efforts to correct them. However, the failure to implement the recommended procedures increases the potential for offenders to go unpunished and for funds to be lost or misappropriated. During our next audit, we will determine if the district court complied with our recommendations.

DISTRICT COURT 22-3-02
WAYNE COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2017 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 Linus H. Myers
Magisterial District Judge

The Honorable Brian W. Smith
Chairperson of the Board of Commissioners

Ms. Nicole A. Hendrix
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.