

COMPLIANCE AUDIT

District Court 09-1-02
Cumberland County, Pennsylvania
For the Period
January 1, 2019 to December 31, 2021

July 2023



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 09-1-02, Cumberland County, Pennsylvania (District Court), for the period January 1, 2019 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.

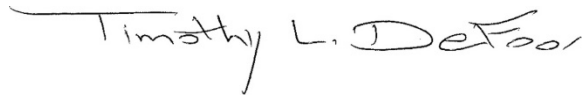
Based on our audit procedures, we conclude that, for the period January 1, 2019 to December 31, 2021, the District Court, in all significant respects, complied with state laws and regulations applicable to the collection of moneys on behalf of the Commonwealth, including whether they have been correctly assessed, reported, and promptly remitted, except as noted in the 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 09-1-02, Cumberland 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
June 29, 2023

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DISTRICT COURT 09-1-02
CUMBERLAND COUNTY
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2019 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>\$ 1,906,664</u>
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This balance reflects the summary of monthly transmittal reports as settled by the Department of Revenue.

Elizabeth S. Beckley served at District Court 09-1-02 for the period January 1, 2019 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 0-9-1-02
 CUMBERLAND COUNTY
 SUMMARY OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2019 TO DECEMBER 31, 2021

Receipts:

Department of Transportation		
Title 75 Fines	\$	379,442
Littering Law Fines		1,158
Child Restraint Fines		5,366
Department of Revenue Court Costs		262,654
Crime Victims' Compensation Bureau Costs		27,426
Crime Commission Costs/Victim Witness Services Costs		19,625
Domestic Violence Costs		7,706
Emergency Medical Service Fines		151,161
CAT/MCARE Fund Surcharges		465,015
Judicial Computer System Fees		125,275
Access to Justice Fees		66,511
Criminal Justice Enhancement Account Fees		5,399
Judicial Computer Project Surcharges		179,043
Constable Service Surcharges		21,005
Miscellaneous State Fines and Costs		<u>189,878</u>
 Total receipts		 1,906,664
 Disbursements to Commonwealth		 <u>(1,906,664)</u>
 Balance due Commonwealth (District Court) per settled reports		 -
 Adjusted balance due Commonwealth (District Court) for the period January 1, 2019 to December 31, 2021	 \$	 <u><u>-</u></u>

DISTRICT COURT 09-1-02
CUMBERLAND COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2021

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 under Pa.R.Crim.P. 430(b)(1). Our testing disclosed that 12 were not issued timely. The time of issuance ranged from 99 days to 239 days.

We also tested nine instances in which a warrant may be issued under Pa.R.Crim.P. 430(b)(3). Our testing disclosed that five were not issued timely. The time of issuance ranged from 77 days to 246 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 38 warrants required to be returned or recalled, one was not returned or recalled, and 27 were not returned timely. The time of issuance to the time of return ranged from 189 days to 663 days.

Furthermore, we tested 15 instances in which a DL-38 was required to be issued. Our testing disclosed that nine were not issued timely. The time of issuance ranged from 105 days to 246 days.

DISTRICT COURT 09-1-02
CUMBERLAND COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
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Finding - Inadequate Arrest Warrant And DL-38 Procedures (Continued)

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.

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.

DISTRICT COURT 09-1-02
CUMBERLAND COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2021

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

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).

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 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.

Court staff stated that there were other priorities, and the court was very busy which resulted in staff not being able to review all warrants to determine the status and follow-up. 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.

DISTRICT COURT 09-1-02
CUMBERLAND COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2021

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

Management's Response

The Magisterial District Judge responded as follows:

Let me begin by sharing with you our staffing challenges for this period as they directly affect our ability to complete things in a timely manner. In March of 2019, I began asking Court Administration for additional help as the filings in our office were increasing dramatically. In 2019, we docketed almost 7,000 traffic citations alone. The staff could not keep up. We asked for additional staff and for the current staff to have overtime, both requests were denied.

Our staff began looking for other less demanding positions. By January 2020, the only staff member left in this office was our office manager. We were then lent staff from other Magisterial District Judge (MDJ) offices in the county to help keep us afloat. Of the full-time people on loan to us, one came at the end of 2019 and the other at the end of January 2020. Anyone else that assisted our office was strictly on a part-time basis.

COVID-19 hit, and our office was closed to the public from March 16, 2020 until early June 2020 as we had no protection for the staff from the public, so the office had to be reconfigured and a wall built with a window for staff safety. The office manager and I continued to come into the office on a part-time basis to process payments, enter new cases and file. We were able to hire new staff throughout 2020, but they all had to begin at other offices as we had no manpower to train them.

With regard to the written finding Inadequate Arrest Warrants and DL-38 Procedures, we do not argue that some of this was not done according to the Administrative Offices of Pennsylvania Courts' (AOPCs) timeliness; however, when faced with the lack of staff and increased number of cases docketed in our court, we had to prioritize what the staff who was lent to us would do. It wasn't until we had lost all of the staff in this office that the County finally allowed those that were here to work overtime, but the overtime was limited to two- and one-half hours per week so that no staff person exceeded 40 hours per week. That simply was not enough time for us to dig out of the hole we were in or to make sure everything was done in a timely fashion.

Given our lack of manpower during this audit period and how much our numbers increased, I think the staff that was on loan to us and then those that we hired did an excellent job of getting us back on track. All of our Warrants and DL-38s were caught up and on track by January of 2021.

DISTRICT COURT 09-1-02
CUMBERLAND COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
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Finding - Inadequate Arrest Warrant And DL-38 Procedures (Continued)

Auditor's Conclusion

Although we recognize the district court's concerns about staffing and the COVID-19 pandemic, it is imperative that warrants and DL-38s are issued timely to enforce the collection of monies. Please note that we did not include any exceptions in the finding which occurred during the pandemic. During our next audit, we will determine if the district court complied with our recommendations.

DISTRICT COURT 09-1-02
CUMBERLAND COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2021

This report was initially distributed to:

The Honorable Pat Browne
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 Elizabeth S. Beckley
Magisterial District Judge

The Honorable Gary Eichelberger
Chairperson of the Board of Commissioners

The Honorable Alfred Whitcomb
Controller

Ms. Melissa H. Calvanelli
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.