

# COMPLIANCE AUDIT

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District Court 23-3-02  
Berks County, Pennsylvania  
For the Period  
January 1, 2020 to December 31, 2022

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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 23-3-02, Berks County, Pennsylvania (District Court), for the period January 1, 2020 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 determine the reason(s) for 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.

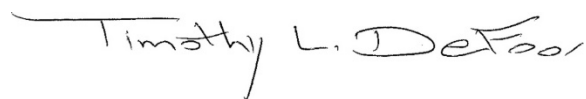
The district court is responsible for establishing and maintaining effective internal controls to provide reasonable assurance of compliance with state laws and regulations applicable to the collection of moneys on behalf of the Commonwealth, including whether they have been correctly assessed, reported, 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, 2020 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 *Proposed Audit Adjustments* line of the summary, nothing came to our attention to indicate inaccuracies in the amounts included on the summary.

The contents of this report were discussed with the District Court's management. We appreciate the courtesy extended to us by the Berks County District Court 23-3-02 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.



Timothy L. DeFoor  
Auditor General  
April 5, 2024

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DISTRICT COURT 23-3-02  
BERKS COUNTY  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2020 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 as follows:

District Court checks issued to:

Department of Revenue	<u>\$ 1,005,060</u>
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This balance reflects the summary of monthly transmittal reports as settled by the Department of Revenue.

Michael G. Hartman served at District Court 23-3-02 for the period January 1, 2020 to April 30, 2022.

Senior Judge Thomas Gauby served at District Court 23-3-02 for the period May 10, 2022 to September 1, 2022.

Senior Judge Gloria Stitzel served at District Court 23-3-02 for the period September 20, 2022 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 23-3-02  
 BERKS COUNTY  
 SUMMARY OF RECEIPTS AND DISBURSEMENTS  
 FOR THE PERIOD  
 JANUARY 1, 2020 TO DECEMBER 31, 2022

Receipts:

Department of Transportation		
Title 75 Fines	\$	198,413
Motor Carrier Road Tax Fines		75
Commercial Driver Fines		2,500
Littering Law Fines		375
Child Restraint Fines		525
Department of Revenue Court Costs		150,809
Crime Victims' Compensation Bureau Costs		14,436
Crime Commission Costs/Victim Witness Services Costs		10,698
Domestic Violence Costs		3,305
Department of Agriculture Fines		812
Emergency Medical Service Fines		103,918
CAT/MCARE Fund Surcharges		188,054
Judicial Computer System Fees		66,567
Access to Justice Fees		35,837
Criminal Justice Enhancement Account Fees		3,395
Judicial Computer Project Surcharges		96,974
Constable Service Surcharges		8,768
Miscellaneous State Fines and Costs		119,599
		<hr/>
Total receipts		1,005,060
Disbursements to Commonwealth		<hr/> <u>(1,005,060)</u>
Balance due Commonwealth (District Court) per settled reports		-
Audit adjustments		<hr/> -
Adjusted balance due Commonwealth (District Court) for the period January 1, 2020 to December 31, 2022	\$	<hr/> <u>-</u>

DISTRICT COURT 23-3-02  
BERKS COUNTY  
FINDING AND RECOMMENDATION  
FOR THE PERIOD  
JANUARY 1, 2020 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 the prior audit for the period January 1, 2016 to December 31, 2019. Our current audit found that the 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 timely.

We tested 24 instances in which a warrant was required to be issued under Pa.R.Crim.P. 430(b)(1). Our testing disclosed that seven were not issued timely. The time of issuance ranged from 117 days to 176 days.

We also tested 16 instances in which a warrant may be issued under Pa.R.Crim.P. 430(b)(3). Our testing disclosed that 11 were not issued timely. The time of issuance ranged from 66 days to 137 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.

Furthermore, we tested 26 instances in which a DL-38 was required to be issued. Our testing disclosed that 15 were not issued timely. The time of issuance ranged from 66 days to 129 days.

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

DISTRICT COURT 23-3-02  
BERKS COUNTY  
FINDING AND RECOMMENDATION  
FOR THE PERIOD  
JANUARY 1, 2020 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.

**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 23-3-02  
BERKS COUNTY  
FINDING AND RECOMMENDATION  
FOR THE PERIOD  
JANUARY 1, 2020 TO DECEMBER 31, 2022

**Finding - 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. 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.

This condition existed because the district court failed to review the tickler reports for warrants daily as recommended in the prior audit. Court staff stated that they were not working at the district court during the audit period. Therefore, they could not provide us with information as to why this issue occurred.

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.

**Recommendation**

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.

**Management's Response**

The Magisterial District Judge responded as follows:

Our current staff, including myself, were not here during the entire time frame of the audit. We are aware of the finding and will make the required adjustments.

**Auditors Conclusion**

We appreciate the court's efforts 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 23-3-02  
BERKS COUNTY  
SUMMARY OF PRIOR AUDIT RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2020 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 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.

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

DISTRICT COURT 23-3-02  
BERKS COUNTY  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2020 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 F. Richard Drumheller**  
Magisterial District Judge

**The Honorable Christian Y. Leinbach**  
Chairperson of the Board of Commissioners

**The Honorable Joe Rudderow**  
Controller

**Julia E. Bagnoni, Esquire**  
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).