

COMPLIANCE AUDIT

Clerk of Judicial Records Lackawanna 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 Clerk of Judicial Records, Lackawanna County, Pennsylvania (County Officer), for the period January 1, 2019 to December 31, 2022, pursuant to the requirements of Sections 401(b) and 401(d) of *The Fiscal Code*, 72 P.S. § 401(b) and § 401(d).

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 County Officer's accounts. 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 County Officer 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 County Officer 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 County Officer, 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 Outstanding Check Procedures - Criminal Division - Recurring.
- Inadequate Internal Controls Over The Bank Account - Civil Division.
- Inadequate Assessment Of Costs And Fees - Criminal Division.

This report includes summaries of the County Officer's receipts and disbursements of funds collected on behalf of the Commonwealth (summaries). We obtained data representing the County Officer's receipts and disbursements from the Pennsylvania Department of Revenue, which obtains data from each of the Commonwealth's clerk of courts and prothonotary offices, and used the data to create the summaries in the format required by the Department of Revenue. We also obtain data relating to prothonotaries from the Administrative Office of Pennsylvania Courts. We also evaluated the accuracy of the data as part of our audit to conclude on the County Officer'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 summaries; however, the scope of our audit does not include the issuance of an opinion on the accuracy of the amounts reported in the summaries.

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 County Officer's management. We appreciate the courtesy extended to us by the Lackawanna County Clerk of Judicial Records 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
May 1, 2024

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CLERK OF JUDICIAL RECORDS - CRIMINAL AND CIVIL DIVISIONS
LACKAWANNA COUNTY
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2022

The Department of Auditor General is mandated by Article IV, Section 401(b) and (d) of *The Fiscal Code* (Act of April 9, 1929, P.L.343, No. 176), to audit the accounts of each county officer to determine whether all moneys collected on behalf of the Commonwealth have been correctly assessed, reported, and promptly remitted.

Clerk of Judicial Records - Criminal Division 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 summary and criminal cases filed with the Clerk of Judicial Records' Office.

Clerk of Judicial Records - Civil Division receipts are comprised of taxes, surcharges, fees, and fines collected on behalf of the Department of Revenue and the Administrative Office of Pennsylvania Courts. These include monies collected for the following taxes, surcharges, and fees:

- Writ Taxes of \$.50 or \$.25 imposed on taxable instruments filed with the Prothonotary.
- Divorce Complaint Surcharges of \$10 imposed on all divorce decrees.
- Judicial Computer System/Access To Justice Fees of \$40.25 imposed on all petitions for grant of letters, and first filings in petitions concerning adoptions, incompetents' estates, minors' estates, and inter vivos trusts.
- Protection From Abuse Surcharges of \$100 imposed against defendants when a protection order is granted as a result of a hearing. Protection From Abuse Contempt Fines of not less than \$300 nor more than \$1,000 imposed against a defendant who is found to be in violation of a protection from abuse order.
- Criminal Charge Information System Fees imposed on all custody cases. Of the fee imposed, 80% is payable to the Administrative Office of Pennsylvania Courts (AOPC) and 20% is payable to the County in which the action took place. The statement of receipts and disbursements only reflects the portion collected on behalf of the AOPC.

CLERK OF JUDICIAL RECORDS - CRIMINAL AND CIVIL DIVISIONS
 LACKAWANNA COUNTY
 BACKGROUND
 FOR THE PERIOD
 JANUARY 1, 2019 TO DECEMBER 31, 2022

Total disbursements during the audit period are as follows:

Clerk of Judicial Records - Criminal Division

Clerk of Judicial Records - Criminal Division checks issued to:

Department of Revenue	\$3,833,899
Game Commission	2,600
State Police	3,931
Department of Environmental Protection	68
Department of Human Services	2,446
Department of State	1,954
Department of Transportation	2,144
Department of Public Welfare	705
Department of Labor and Industry	3,715
Liquor Control Board	2,857
Office of the Inspector General	<u>8,428</u>
 Total	 <u><u>\$3,862,747</u></u>

This balance reflects a summary of monthly transmittal reports as settled by the Department of Revenue. The balance also reflects a summary of any receipts disbursed directly to other state agencies.

Clerk of Judicial Records - Civil Division

Clerk of Judicial Records - Civil Division checks issued to:

Department of Revenue	\$ 627,798
Administrative Office of Pennsylvania Courts	<u>8,908</u>
 Total	 <u><u>\$ 636,706</u></u>

This balance reflects a summary of monthly transmittal reports as settled by the Department of Revenue. The balance also reflects a summary of receipts that were disbursed directly to the Administrative Office of Pennsylvania Courts.

CLERK OF JUDICIAL RECORDS - CRIMINAL AND CIVIL DIVISIONS
LACKAWANNA COUNTY
BACKGROUND
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2022

Mauri Kelly served as the Clerk of Judicial Records for the period January 1, 2019 to December 31, 2022.

The summaries of receipts and disbursements provide a summary of receipts and disbursements by category. The categories and the amounts of fines, costs, fees, taxes, and surcharges assessed are based on Pennsylvania laws and regulations.

The summaries were 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.

CLERK OF JUDICIAL RECORDS - CRIMINAL DIVISION
LACKAWANNA COUNTY
SUMMARY OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2022

Receipts:

Department of Transportation			
Title 75 Fines	\$		112,858
Overweight Fines			752
Department of Revenue Court Costs			150,885
Crime Victims' Compensation Costs			279,885
Crime Commission Costs/Victim Witness Services Costs			192,313
Domestic Violence Costs			41,333
Emergency Medical Services Fines			15,316
DUI - ARD/EMS Fees			25,979
CAT/MCARE Fund Surcharges			41,587
Judicial Computer System/Access to Justice Fees			367,020
Offender Supervision Fees			1,749,147
Constable Service Surcharges			55
Criminal Laboratory Users' Fees			27,391
Probation and Parole Officers' Firearm Education Costs			29,090
Substance Abuse Education Costs			171,870
Office of Victims' Services Costs			45,691
Miscellaneous State Fines and Costs			<u>611,538</u>
 Total receipts			 3,862,710
 Disbursements to Commonwealth			 <u>(3,862,747)</u>
 Balance due Commonwealth (County) per settled reports			 (37)
 Audit adjustments			 <u>_____</u>
 Adjusted balance due Commonwealth (County) for the period January 1, 2019 to December 31, 2022			 <u>\$ (37)</u>

CLERK OF JUDICIAL RECORDS - CIVIL DIVISION
LACKAWANNA COUNTY
SUMMARY OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2022

Receipts:

Writ Taxes	\$	7,845
Divorce Complaint Surcharges		18,280
Judicial Computer System/Access To Justice Fees		600,742
Protection From Abuse Surcharges and Contempt Fines		1,166
Criminal Charge Information System Fees		<u>8,908</u>
Total Receipts		636,941
Commissions		<u>(235)</u>
Net Receipts		636,706
Disbursements to Commonwealth		<u>(636,706)</u>
Balance due Commonwealth (County) per settled reports		-
Audit adjustments		<u>-</u>
Adjusted balance due Commonwealth (County) for the period January 1, 2019 to December 31, 2022	\$	<u><u>-</u></u>

CLERK OF JUDICIAL RECORDS
LACKAWANNA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2022

Finding No. 1 - Inadequate Outstanding Check Procedures - Criminal Division - Recurring

We cited the issue of inadequate outstanding check procedures in our prior audit report for the period January 1, 2016 to December 31, 2018. Our current audit found that the office did not correct this issue.

Our audit of the office checking account disclosed that the office was carrying 138 outstanding checks totaling \$9,713, dated from May 17, 2018 to June 30, 2022, that were still outstanding as of December 31, 2022.

Good internal accounting controls require that the office follow-up on all outstanding checks. If a check is outstanding for a period over 180 days, efforts should be made to locate the payee. If efforts to locate the payee are unsuccessful, the amount of the check should be removed from the outstanding checklist, added back to the checkbook balance, and subsequently held in escrow for unclaimed escheatable funds.

The office holder stated that escheat procedures had not been performed since the prior audit.

The failure to follow these procedures results in a weakening of internal controls over the cash account and inefficiency caused by the needless record-keeping of outstanding checks.

Recommendation

We strongly recommend that the office implement a procedure whereby outstanding checks are reviewed monthly and long outstanding checks are addressed in a timely manner.

Management's Response

The County Officer responded as follows:

I will discuss with my staff improving the check clearing system so that in the future we will have a more adequate procedure in place.

Auditor's Conclusion

We appreciate the officeholder's efforts to correct this issue. This is a recurring finding. It is imperative that the office take all corrective actions necessary to comply with our recommendation. The potential for funds to be lost, stolen, or misappropriated is increased as long as these deficiencies continue. During our next audit, we will determine if the office complied with our recommendation.

CLERK OF JUDICIAL RECORDS
LACKAWANNA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2022

Finding No. 2 - Inadequate Internal Controls Over The Bank Account - Civil Division

Our audit of the accounting records for the office disclosed the following deficiencies in the internal controls over the bank account:

- Bank reconciliations were not properly prepared. The office does not maintain a daily book balance.
- There was a \$5,578 shortage between the adjusted bank balance and the escrow report balance at December 31, 2022. We were able to identify \$3,348 as unreimbursed bank fees and credit card charges occurring during the audit period, which left \$2,230 unidentified.

A good system of internal controls ensures that the office reconciles bank accounts at the end of each month and the ending adjusted bank balance is reconciled with liabilities on a monthly basis and any discrepancies are immediately investigated and resolved. Since the office bank account is essentially an escrow account on behalf of the Commonwealth, County, and other participating entities, all available funds on hand should equal unpaid obligations.

The officeholder stated that much, if not all, of the shortage resulted from bank fees and credit card charges that were not reimbursed from the County.

Without a good system of internal controls over the bank account, the possibility of funds being lost or misappropriated increases significantly.

Recommendation

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

Management's Response

The County Officer responded as follows:

I have discussed with my staff receiving additional training on bank reconciliations to better perform this task in the future.

Auditor Conclusion

During our next audit, we will determine if the office complied with our recommendation.

CLERK OF JUDICIAL RECORDS
LACKAWANNA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2022

Finding No. 3 - Inadequate Assessment of Costs And Fees - Criminal Division

Our audit disclosed that the office did not assess certain costs and fees as mandated by law. Of 72 cases tested, we noted the following discrepancies:

- There were 16 cases in which the Criminal Justice Enhancement Account Fee was not assessed.
- There were eight cases in which the Judicial Computer System/Access To Justice (JCS/ATJ) Fees were not assessed properly.
- There were seven cases in which the Amber Alert System Cost was not assessed.
- There were five cases in which the DNA Cost was not assessed properly.

The following state statutes address the assessment of costs and fees that were not properly assessed:

- Effective November 10, 2007, Title 42 Pa.C.S. § 3575 (b) provides for the collection of a \$50 Criminal Justice Enhancement Account (CJEA) Fee if a defendant accepts Accelerated Rehabilitative Disposition, is convicted of or enters a plea of guilt or nolo contendere for a felony, misdemeanor of the first degree or misdemeanor of the second degree as set forth in Title 18 PA.C.S. (relating to crimes and offenses), or is convicted of or enters a plea of guilt or nolo contendere for a violation of Title 35, Section 780-113(a)(16), known as The Controlled Substance, Drug, Device and Cosmetic Act.
- Title 42 Pa. C.S.A. § 3733 provides for the collection of Judicial Computer System/Access to Justice (JCS/ATJ) Fees. It should be noted that these fees should not be assessed on Accelerated Rehabilitative Disposition (ARD) cases prior to December 8, 2009.
- Title 35 P.S. § 7025.4 provides for the collection of the Amber Alert System Cost. Unless the court finds that undue hardship would result, in addition to any other cost imposed by law, a cost of \$25 shall automatically be assessed on each person convicted, adjudicated delinquent or granted accelerated rehabilitative disposition (ARD) of the offenses in 18 Pa.C.S. § 2901 -2910.

CLERK OF JUDICIAL RECORDS
LACKAWANNA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2019 TO DECEMBER 31, 2022

Finding No. 3 - Inadequate Assessment of Costs And Fees - Criminal Division (Continued)

- Effective January 31, 2005, Title 44 P.S. § 2322, specifies that all felonies, regardless of offense, and misdemeanors for § 2910 (relating to luring a child into a motor vehicle) and § 3126 (relating to indecent assault), authorizes the automatic assessment of a \$250 DNA cost when a DNA sample is taken.

These incorrect assessments occurred because the office was not aware of laws and regulations regarding the proper assessment of Commonwealth costs and fees. The office stated that the fees do not populate automatically in the accounting computer system.

The improper assessing of these costs and fees resulted in the defendant not being assessed the proper amount of costs and fees associated with the violation; and/or a loss of revenue to the Commonwealth and County.

Recommendation

We recommend that the office review the laws noted above to ensure that costs and fees are assessed as mandated by law.

Management's Response

The County Officer responded as follows:

I have discussed with my staff to implement a more robust approach to making sure fees, costs, etc. are correctly assessed with additional training.

Auditor Conclusion

During our next audit, we will determine if the office complied with our recommendation.

CLERK OF JUDICIAL RECORDS
LACKAWANNA 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 office establish and implement a procedure whereby outstanding checks are reviewed monthly to determine if there are any long outstanding checks. If checks remain outstanding and attempts to contact payees after 90 days are unsuccessful, the office should reinstate the amount of outstanding checks to the checking account and subsequently hold these monies in escrow for unclaimed escheatable funds.
- That the Civil Divisions review the laws to ensure that costs, fees, and surcharges are assessed as mandated by law.

During our current audit, we noted that the office complied with our second bulleted recommendation. However, the office did not comply with our first bulleted recommendation. Please see the current year Finding No. 1 for additional information.

CLERK OF JUDICIAL RECORDS
LACKAWANNA 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

Mr. Thomas J. Dougherty
Director
Division of Grants and Standards
Pennsylvania Board of Probation and Parole

The Honorable Mauri Kelly
Clerk of Judicial Records

The Honorable Gary DiBileo
Controller

The Honorable William Gaughan
Chairman of the Board of Commissioners

The Honorable Patricia Corbett
President Judge

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.